



DEPARTMENT OF STATE

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LIST OF PAPERS

[Unless otherwise specified, the correspondence is *from* or *to* officials in the Department of State]

GREECE

NEGOTIATIONS FOR FUNDING THE GREEK DEBT TO THE UNITED STATES AND FOR AN ADDITIONAL LOAN TO GREECE

| Date and number | Subject | Page |
|-------------------------|---|------|
| 1926 Dec. 27 (72) | <i>From the Minister in Greece (tel.)</i> Conversation in which Foreign Minister made informal suggestion for debt settlement on basis of new loan of \$48,000,000, of which \$30,000,000 would be used for refugee settlement work and the remaining \$18,000,000 would represent principal and interest due on Greek debt to the United States; and American Minister remarked that same results would be achieved by settlement of Greek debt followed by commercial loan in American market. | 1 |
| 1927 Feb. 1 (4) | <i>From the Minister in Greece (tel.)</i> Greek Government's desire to learn whether American legislation regarding debt settlement is pending and what are expectations of Treasury Department, Greece having sent leading bank authorities to London for purpose of renewing negotiations with British. | 2 |
| Mar. 2 (5) | <i>From the Minister in Greece (tel.)</i> Report that British apparently are determined to refuse additional refugee loan until Greece consents to settlement for war materials as well as credits; opinion that American action to relieve situation by government or commercial loan would be justified on both humanitarian and economic grounds. | 2 |
| Mar. 4 (7) | <i>To the Minister in Greece (tel.)</i> Permission for informal statement that in case of acceptable offer by Greek Government United States would relax terms of 1918 loan agreement as to repayment and offer no objection to flotation of a commercial loan in the American market. Information that no legislation is pending; that World War Foreign Debt Commission was terminated without having made a recommendation; and that satisfactory proposals might open American market for a commercial loan. | 3 |
| Apr. 9 (21) | <i>From the Minister in Greece (tel.)</i> Information that Greece has reached agreement with Great Britain for debt settlement; suggestion that representations be made to Greece for no less consideration respecting U. S. debt. | 4 |
| Apr. 10 (16) | <i>To the Minister in Greece (tel.)</i> Instruction to inform Foreign Minister that U. S. Government (1) expects no less consideration regarding debt settlement than has been shown British Government, and (2) will not regard favorably any flotation in the United States of a loan for Greece until a debt settlement has been effected, American banking interests which have inquired as to participation with British bank in loan to Greek Government to be informed accordingly by the Department. | 4 |

GREECE

NEGOTIATIONS FOR FUNDING THE GREEK DEBT TO THE UNITED STATES AND FOR AN
ADDITIONAL LOAN TO GREECE—Continued

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| 1927 | | |
| Apr. 18 (17) | <i>To the Minister in Greece (tel.)</i> Request for report as to reaction of Foreign Minister to representations made on basis of telegram No. 16, April 10. | 4 |
| Apr. 19 (24) | <i>From the Minister in Greece (tel.)</i> Foreign Minister's promise of prompt consideration of Department's views by Cabinet; his surprise and embarrassment upon learning that loan which British Government had agreed to support had already been offered in America. | 5 |
| Apr. 26 (20) | <i>To the Minister in Greece (tel.)</i> Transmittal of Department's reply to American banking interests (text printed), stating inability to regard favorably the flotation in United States of a loan for any government having a debt to the American Government still unfunded. | 5 |
| May 14 (33) | <i>From the Minister in Greece (tel.)</i> Inquiry whether representations shall be made concerning guaranteed loan to be arranged in Geneva. Continued silence of Greek Government with reference to American debt settlement. | 5 |
| May 18 (21) | <i>To the Minister in Greece (tel.)</i> Permission to repeat U. S. point of view presented in telegram No. 7, March 4, emphasized by appropriate references to telegram No. 16, April 10. | 6 |
| June 7 (38) | <i>From the Minister in Greece (tel.)</i> Substance of Greek note, stating that Greece believes itself rightfully entitled to demand complete application of 1918 contract; that in agreeing with Great Britain to relinquish claim to balance of 1918 credits Greece never had impression that this would affect its American interests; that discussions will be resumed, Greece being ready to propose arbitration should insurmountable difficulties arise. | 6 |
| June 9 (219) | <i>From the Minister in Greece</i> Greek note of June 3 (text printed) referred to in telegram No. 38, June 7. Information that France has made no advances under 1918 contract, nor does Greece propose to request any. | 7 |
| July 18 | <i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> Conversation in which Greek Minister brought up question of further U. S. advances under 1918 agreement and the Secretary of State referred to recent British debt settlement, stating that U. S. Government expected no less favorable terms, that the amount advanced did not affect principle involved, and that consideration would be given to any Greek proposals other than a proposal involving additional advances of money. | 8 |
| Aug. 10 | <i>From the Acting Secretary of the Treasury</i> Suggestion, following informal discussion of question with Greek Minister, that an agreement along lines of that negotiated with British offers positive advantages. | 9 |
| Aug. 25 (54) | <i>From the Chargé in Greece (tel.)</i> Inquiry, in view of proposal of certain American interests to finance Greek engineers who are bidding on national road work, as to whether U. S. policy is still as outlined in telegram No. 20, April 26. | 11 |

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NEGOTIATIONS FOR FUNDING THE GREEK DEBT TO THE UNITED STATES AND FOR AN
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| Aug. 25 (28) | <i>To the Chargé in Greece (tel.)</i> Reply that policy outlined in telegram No. 20, April 26, remains unchanged. | 11 |
| Sept. 12 | <i>From the Consul General at Paris (tel.)</i> From Skinner: Statement to Paris office of National City Bank that, pending adjustment of American claim, Department is unfavorable to American participation in loan which is being arranged at Geneva. | 11 |
| Sept. 13 | <i>To the Consul General at Paris (tel.)</i> For Skinner: Approval of statement to National City Bank. | 12 |
| Oct. 20 (34) | <i>To the Minister in Greece (tel.)</i> Possible terms of Greek debt settlement, providing for: Funding of present debt and interest on same basis as recent settlement with Great Britain; an additional U. S. Government loan sufficient to bring total U. S. loan to same figure as British loan under 1918 agreement, the new loan to run 15 years; reduction of loan arranged at Geneva by amount of additional U. S. loan; and the benefits of guaranties of Geneva loan to apply to new U. S. loan. Agreement to postpone consideration of 15-year provision pending investigation of Greek financial situation and ability to repay. | 12 |
| Nov. 5 | <i>From the Greek Legation</i> Résumé of Greek economic situation. | 13 |
| Nov. 18 (37) | <i>To the Minister in Greece (tel.)</i> Continued opposition by Department to flotation of Greek loans, despite urgings of American interests for relaxation of policy; willingness, however, for contracts to be signed with provision for financing after completion of debt settlement. | 14 |
| Nov. 26 (38) | <i>To the Minister in Greece (tel.)</i> Terms of proposal which Greek Minister is telegraphing to his Government, resembling those outlined in telegram No. 34, October 20, except for 20-year period for new loan. | 15 |
| Nov. 30 (39) | <i>To the Minister in Greece (tel.)</i> Greek Government's acceptance of proposal, upon condition that U. S. Government accept temporary assurance of loan service by an American representative. U. S. acceptance of condition, with understanding that representative's control will be at least as effective as that of International Financial Commission. Approval of plan by Executive branch of Government; intention to present it to Congress when duly put in writing and signed. | 15 |
| Dec. 6 | <i>From the Under Secretary of the Treasury</i> Treasury statement to the press, December 5 (text printed), giving background of proposed settlement and details of agreement to be recommended to Congress. | 16 |

GREECE

REPRESENTATIONS TO PROTECT AMERICAN INTERESTS FROM DISCRIMINATION
IN CONCESSION TO BRITISH COMPANY FOR TRAMWAYS AND BUS LINES IN
ATHENS

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| 1927 Jan. 24 (1) | <i>To the Minister in Greece (tel.)</i> Instructions to investigate statement of Ford Motor Company that Greek Government is to grant concession to a British company for an absolute monopoly in favor of British-built chassis for motor busses between Piraeus and Athens and on streets of Athens. | 19 |
| Jan. 25 (2) | <i>From the Minister in Greece (tel.)</i> Information that Greek Government is considering contract giving British concern monopoly of transportation in and around Athens and certain customs privileges, and that because concessionaires are supported by direct British Government loan, they must buy British cars and supplies exclusively. Recommendation that Department approve objections Minister has already made and instruct him formally to support open-door policy. | 19 |
| Jan. 28 (2) | <i>To the Minister in Greece (tel.)</i> Inquiry whether proposed concession constitutes simply exclusive franchise for bus system or grants rights so comprehensive as to exclude individuals from operating motor taxi service. | 20 |
| Jan. 29 | <i>From the Minister in Greece (tel.)</i> Information that taxis are not affected, but that provisions of contract as to freedom of competition are illusory and will result in driving out all competition. | 20 |
| Feb. 2 (3) | <i>To the Minister in Greece (tel.)</i> Disposition of Department not to object to exclusive franchise or customs exemptions granted by the contract; instructions, however, should contract restrict freedom of competition to such a degree as to result in exclusion of American automotive products, to make appropriate representations against such discrimination. | 20 |
| Mar. 22 (119) | <i>From the Minister in Greece</i> Report that representations have been material in securing waiver by British company of privilege of importing gasoline, tires, and accessories free of duty, and that some other modifications have been made in contract. | 21 |

REPRESENTATIONS TO THE GREEK GOVERNMENT REGARDING PROPOSED INCREASE
IN IMPORT DUTIES ON WHEAT AND FLOUR

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| 1927 Feb. 11 (75) | <i>From the Minister in Greece</i> Consideration by special commission of Greek Chamber of proposed increase in import duty on flour; American Minister's expression to Foreign Minister of hope that he would use influence to prevent change proposed. | 22 |
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GREECE

REPRESENTATIONS TO THE GREEK GOVERNMENT REGARDING PROPOSED INCREASE
IN IMPORT DUTIES ON WHEAT AND FLOUR—Continued

| Date and number | Subject | Page |
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| 1927 Mar. 4 (6) | <i>From the Minister in Greece (tel.)</i> Introduction into Chamber of bill increasing rate of metallic drachma on imported wheat and flour as of March 2; American Minister's representations against application of increase without notice, especially to flour afloat and on order. | 23 |
| Mar. 4 (8) | <i>To the Minister in Greece (tel.)</i> Request for report concerning import restrictions on flour. | 23 |
| Mar. 5 (7) | <i>From the Minister in Greece (tel.)</i> Report that Government proposed to increase rate of metallic drachma from 5 to 8½ as to wheat and from 6¼ to 14 as to flour, retroactive from March 2, and that protests have resulted in withdrawal of rate as to goods afloat or on order before March 1. | 24 |
| Mar. 8 (9) | <i>From the Minister in Greece (tel.)</i> Information that because legislative proposals apparently require exclusive use of domestic flour in breadmaking, importations of flour will virtually cease; recommendation that Department support Minister's opposition by strong representations. | 24 |
| Mar. 10 (9) | <i>To the Minister in Greece (tel.)</i> Opinion that Department cannot formally oppose new regulations provided that Greece has agreed not to apply increased duties to wheat and flour on order prior to announcement of new rates and that most-favored-nation treatment is accorded American products. | 24 |
| Mar. 11 (10) | <i>From the Minister in Greece (tel.)</i> Report that a reduced rate of 8½ drachma will be applied to flour afloat and on order prior to March 2, and that wheat in all cases will be held liable to new rate of 8½ drachma. Inquiry whether prohibition in bill concerning specific weight of wheat would affect importations of American wheat. | 25 |
| Mar. 14 (10) | <i>To the Minister in Greece (tel.)</i> Information that American wheat might be excluded by weight provision; instructions to endeavor to secure modification. | 25 |
| Mar. 18 (12) | <i>From the Minister in Greece (tel.)</i> Foreign Minister's statement that weight provision was not intended to discriminate against American wheat, and that he hopes to obtain amendment relieving bill of objections. The American Minister's uncertainty of overcoming obstacles to flour importations, in view of Greek Government's desire to build up domestic milling industry. | 26 |

GUATEMALA

GOOD OFFICES OF THE AMERICAN LEGATION IN BEHALF OF AMERICAN AND BRITISH CREDITORS OF THE GUATEMALAN GOVERNMENT

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|--------------------------|---|------|
| 1926 Nov. 2 (1322) | <i>From the Chargé in Guatemala</i> British Minister's desire, in view of likelihood that Guatemala may repay debt to International Railways of Central America, to ask British Foreign Office to request Department of State to instruct American Legation to urge upon Guatemalan President importance of settling British debt prior to issuance of any new bonds; American Chargé's reply that he perceived no objection but would not be able to assist without instructions. Memorandum by British Legation (text printed) outlining history of British claim and proposals of Council of Foreign Bondholders. | 27 |
| Nov. 29 (957) | <i>To the Minister in Guatemala</i> Approval of Chargé's statement reported in despatch No. 1322, November 2. | 30 |
| Dec. 27 (820) | <i>From the British Ambassador</i> Inquiry whether United States would be prepared to instruct American Minister in Guatemala to use good offices with a view to promoting an understanding between Guatemalan Government and the representative of the Council of Foreign Bondholders. | 30 |
| 1927 Apr. 8 (22) | <i>To the Minister in Guatemala (tel.)</i> Reply to British Ambassador (excerpt printed), that American Minister is being instructed to assist in any proper way and to inform Guatemala that United States would be glad to see a suitable settlement. Instructions to Minister to indicate to Guatemala advantages of a satisfactory settlement but to avoid impression that United States is exerting pressure; Department's disinclination to support pending proposals of bondholders. | 31 |
| Apr. 21 (1472) | <i>From the Minister in Guatemala</i> British opinion that it should be possible to effect an agreement after Legislative Assembly adjourns. | 32 |
| Apr. 29 (1479) | <i>From the Minister in Guatemala</i> Report concerning negotiations between International Railways and Guatemala for debt settlement; conversation with Foreign Minister in which he mentioned having received a British communication tantamount to a protest against settlement with International Railways prior to agreement with British bondholders; details of Guatemalan proposal for railway debt settlement. | 33 |
| May 4 | <i>Memorandum by the Chief of the Division of Latin American Affairs</i> Call of representatives of International Railways in which desire was expressed for settlement on basis of issuance by Guatemala of bonds to the amount of the claim, and for U. S. informal good offices in promoting a settlement. | 35 |
| May 7 (25) | <i>To the Minister in Guatemala (tel.)</i> Authorisation to use informal good offices in International Railways matter; caution against committal as to acceptability of terms of settlement. | 36 |

GUATEMALA

GOOD OFFICES OF THE AMERICAN LEGATION IN BEHALF OF AMERICAN AND BRITISH CREDITORS OF THE GUATEMALAN GOVERNMENT—Continued

| Date and number | Subject | Page |
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| 1927 May 11 (1491) | <i>From the Minister in Guatemala</i> Information that American Minister, British Minister, and representative of Council of Foreign Bondholders called upon Foreign Minister and expressed desire for early settlement of British and International Railways debts, regardless of which was settled first, and that American Minister expressed attitude of Department of State that a mutually satisfactory adjustment is desirable for all parties concerned. | 36 |
| May 13 (1497) | <i>From the Minister in Guatemala</i> Report of progress of recent negotiations with regard to International Railways debt. | 39 |
| May 19 (1504) | <i>From the Minister in Guatemala</i> Signature by Guatemala and International Railways of agreement providing for issuance by Guatemala of 8 percent bonds to the company in payment of indebtedness; the Minister's reservation of freedom regarding Department's attitude toward terms of contract. | 40 |
| May 31 (51) | <i>From the Minister in Guatemala (tel.)</i> Approval of railway debt settlement by National Legislative Assembly. | 42 |
| Oct. 12 (1672) | <i>From the Chargé in Guatemala</i> Terms of Guatemalan proposal for settlement with British bondholders, to which President and Cabinet have given consent in principle and which it is presumed will be approved when Legislative Assembly convenes in 1928. | 42 |
| Oct. 17 (84) | <i>From the Chargé in Guatemala (tel.)</i> Signature by representative of British bondholders, October 15, of agreement for settlement on terms as outlined in despatch No. 1672, October 12. | 43 |
| Oct. 18 | <i>From the President of the International Railways of Central America</i> Expression of appreciation for cooperation of Department and assistance of American Minister during negotiations leading to the settlement with Guatemala. | 44 |

REPRESENTATIONS TO THE GUATEMALAN GOVERNMENT AGAINST PROPOSED CONCESSION OF MONOPOLY FOR CENTRAL AMERICAN AIR LINE

| | | |
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| 1927 Jan. 19 (1391) | <i>From the Minister in Guatemala</i> Information that Francisco Buch de Parada is in Guatemala to secure a concession in connection with proposed air line between Mexico City and San Salvador; suggestion that action by U. S. Congress providing for air service between southern United States and Puerto Barrios is highly desirable, so as to avert preemption of the aviation field in Central America. | 44 |
| Feb. 1 (7) | <i>To the Minister in Guatemala (tel.)</i> Instructions to ascertain who is backing Parada financially. | 45 |
| Feb. 3 (21) | <i>From the Minister in Guatemala (tel.)</i> Information that Parada has left for San Salvador and that his backing is thought to be the Mexican Government. | 45 |

GUATEMALA

REPRESENTATIONS TO THE GUATEMALAN GOVERNMENT AGAINST PROPOSED
CONCESSION OF MONOPOLY FOR CENTRAL AMERICAN AIR LINE—Continued

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| 1927 Feb. 4 (10) | <i>To the Minister in Salvador (tel.)</i> Instructions to report concerning presence of Parada in Salvador. | 46 |
| Feb. 7 (10) | <i>From the Minister in Salvador (tel.)</i> Information that Parada has submitted proposition to Government of Salvador. | 46 |
| Feb. 15 (13) | <i>To the Minister in Guatemala (tel.)</i> Instructions to make representations to Guatemalan Government against grant of any monopoly which would deny to American citizens a fair and equal opportunity to compete in commercial aviation in Guatemala. | 46 |
| Feb. 19 (1427) | <i>From the Minister in Guatemala</i> <i>Note verbale</i> from Foreign Minister, to the effect that Guatemala has turned down Parada's proposition. | 47 |

HAITI

AMENDMENTS TO THE HAITIAN CONSTITUTION OF 1918

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| 1927 June 1 (1018) | <i>From the High Commissioner in Haiti</i> Proposed amendments to Constitution of 1918, which President Borno is submitting to National Assembly for its preliminary consideration (text printed). | 48 |
| June 15 (29) | <i>To the Chargé in Haiti (tel.)</i> Hope that no further action will be taken until Department has had opportunity to express opinion; instructions to so inform President Borno. | 50 |
| June 23 (962) | <i>From the Chargé in Haiti</i> Report that proposed amendments were published June 7; that opposition to amendment 6, which provides for 6-year presidential term and reelection, is developing. | 51 |
| June 24 (32) | <i>To the Chargé in Haiti (tel.)</i> Surprise, in view of U. S. obligation under treaty of 1915 to aid in maintaining a government in Haiti adequate for protection of life, property and individual liberty, that President Borno should have proceeded with amendments without a definite understanding with Department; instructions to express hope that President will seriously consider withdrawing amendment 6 and will take no action on other amendments for the present. | 52 |
| June 25 (53) | <i>From the Chargé in Haiti (tel.)</i> The President's statement that steps with regard to amendments were taken in entire accord with General Russell, the High Commissioner; his understanding, which is also the Chargé's, that amendments were discussed at Department by General Russell. | 52 |

HAITI

AMENDMENTS TO THE HAITIAN CONSTITUTION OF 1918—Continued

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|-------------------------|--|------|
| 1927 June 30 (37) | <i>To the Chargé in Haiti (tel.)</i> Regret concerning situation that has arisen from fact that amendments, although discussed at Department, were not approved, and that final draft was not received until after they had been laid before Council of State and given to press; inability to approve amendment 6, and insistence that opportunity should be given for thorough study and opinion concerning other amendments. | 53 |
| June 30 (963) | <i>From the Chargé in Haiti</i> Proposals by Councilors of State to amend Constitution to shorten senatorial term from 6 to 4 years and to empower the National Assembly to amend the Constitution. Petition of citizens of Gonaïves District, June 14 (text printed), protesting against amendments published June 7. | 54 |
| July 5 (62) | <i>From the Chargé in Haiti (tel.)</i> Memorandum by President (text printed) stating that amendments were examined and arrived at in accord with High Commissioner, and now can be withdrawn only by replacing them with a single amendment designed to restore to National Assembly its former existing right to amend the Constitution. President's uneasiness and desire for definite expression of Department's views. | 54 |
| July 8 (65) | <i>From the Chargé in Haiti (tel.)</i> President's willingness to accede to Department's objections to amendment 6; the Chargé's belief that situation is favorable for withdrawal or modification, preferably the latter. | 56 |
| July 9 (41) | <i>To the Chargé in Haiti (tel.)</i> Department's disposition not to object to any other amendments than Nos. 5, 6, and 9, and suppression of articles 94 to 99 of the Constitution. | 56 |
| July 12 (68) | <i>From the Chargé in Haiti (tel.)</i> Discussion in which President finally acceded to all the Department's objections except as to suppression of articles 95 and 99, for which he asked reconsideration; his inability, however, to understand Department's reasons for objections, and his continued feeling that someone in Washington studied and approved the court problem with the High Commissioner. The Chargé's request for Department's reaction to 7-year term without reelection suggested by President as alternative, and to proposals of Council of State reported in despatch No. 963, June 30. | 57 |
| July 14 (45) | <i>To the Chargé in Haiti (tel.)</i> Reiteration that Department did not approve amendments nor did anyone make any statement to General Russell which might have been interpreted as approval. | 58 |
| July 18 (46) | <i>To the Chargé in Haiti (tel.)</i> Exposition of Department's objections to amendments 5, 6, and 9 and to suppression of article 99; willingness, upon receipt of report concerning end to be accomplished, to reconsider objection to article 95; reply to inquiry concerning proposals of Council of State, that there is no particular objection to shortening senatorial term, but that Department is convinced that any amendments to the Constitution should be submitted to the people. | 59 |

HAITI

AMENDMENTS TO THE HAITIAN CONSTITUTION OF 1918—Continued

| Date and number | Subject | Page |
|-------------------------|--|------|
| 1927 July 21 (82) | <i>From the Chargé in Haiti (tel.)</i> The President's consent to make a public declaration of his noncandidacy for reelection and his intention to propose a single 7-year term; his statement of the reforms to be accomplished by suppression of article 95; further factors for consideration with respect to amendment 5 and article 99. | 61 |
| July 23 (49) | <i>To the Chargé in Haiti (tel.)</i> Telegrams exchanged between the Department and General Russell (texts printed); the Department's view that certain of the amendments tended toward setting up a dictatorship which would be subject to just criticism and for which the Department would have to take responsibility. | 62 |
| July 23 (50) | <i>To the Chargé in Haiti (tel.)</i> Inquiry whether amendment 8, giving President right to recall certain court officials, contemplates that judges can be removed before expiration of their term except by impeachment for cause; also, whether the word "forfeiture" covers all cases for which impeachment proceedings would be justified against any judge. | 64 |
| July 29 (85) | <i>From the Chargé in Haiti (tel.)</i> Information that impeachment is the only way a judge can be removed before the end of his term, and that "forfeiture" refers only to crime in office. | 64 |
| Aug. 16 (60) | <i>To the Chargé in Haiti (tel.)</i> Suggested text for amendment 6, providing for 6-year term without reelection; belief that provision should be added to amendment 8 to effect that a judge once appointed cannot be removed before expiration of term except for impeachment for cause, and belief that laws governing impeachment should be improved; instructions to propose that number of judges of Cassation Court be reduced from 11 to 5, appointed for 10 years, term of 1 judge to expire every 2 years; belief that term of other judges should be 7 years; withdrawal of objection to suppression of article 95; insistence that article 99 be retained. | 65 |
| Aug. 18 (97) | <i>From the Chargé in Haiti (tel.)</i> Inquiry whether Department approves of President's contention that Legislature can explain meaning and intent of any law at the time it is passed by the Legislature. | 66 |
| Aug. 22 (98) | <i>From the Chargé in Haiti (tel.)</i> Further discussion, in which President's opinions coincided in general with those of Department; his disagreement, however, with text of amendment 6, and continued desire for suppression of article 99; request for definite list of amendments which have been approved. | 66 |
| Aug. 23 (61) | <i>To the Chargé in Haiti (tel.)</i> Inability to withdraw objection to suppression of article 99; summary of Department's stand on amendments, and hope that text of amendment 6 as suggested in telegram No. 60, August 16, will be accepted. | 68 |
| Aug. 25 (63) | <i>To the Chargé in Haiti (tel.)</i> Information that Department has now covered all points and after careful consideration does not feel able to change position with respect to various aspects as covered in the Chargé's telegram No. 98, August 22. | 69 |

HAITI

AMENDMENTS TO THE HAITIAN CONSTITUTION OF 1918—Continued

| Date and number | Subject | Page |
|--|---|------|
| 1927 Aug. 29 (100) | <i>From the Chargé in Haiti (tel.)</i> The President's preference to withdraw amendment 6 rather than use Department text, although still preferring 6-year term. The Chargé's comment to Department that with the exception of new wording for amendment 8 to article 89 (text printed), all amendments are now either acceptable to both parties or have been withdrawn. | 70 |
| Aug. 31 (66) | <i>To the Chargé in Haiti (tel.)</i> Willingness to omit amendment 6, although Department does not share President's views concerning dangers of present provisions governing succession in case of a vacancy; instructions to urge retention in amendment 8 of 10-year term for judges of Cassation and 7 for others, and query whether number of judges of Cassation is to be reduced. | 71 |
| Sept. 5 (106) | <i>From the Chargé in Haiti (tel.)</i> The President's decision not to retain amendment 6; his acceptance of 10- and 7-year terms for judges; explanation that question of reduction in number of judges will be considered when framing laws organizing magistrature. | 72 |
| Sept. 9 (112) | <i>From the Chargé in Haiti (tel.)</i> List of amendments which have either been agreed upon or canceled, and text of amended article 89. | 73 |
| Undated [Rec'd Sept. 9] (113) | <i>From the Chargé in Haiti (tel.)</i> Text of amended article E of transitory provision. | 73 |
| Sept. 26 (125) | <i>From the High Commissioner in Haiti (tel.)</i> Proposal of President Borno for amendment of articles 72 and 77 so as to provide for a 6-year term and that a president elected to fill a vacancy shall serve 6 years rather than until the end of the term vacated (amendments printed). | 74 |
| Oct. 1 (83) | <i>To the High Commissioner in Haiti (tel.)</i> Suggested wording to remove ambiguity from amended article 72 (text printed). | 75 |
| Oct. 4 (1089) | <i>From the High Commissioner in Haiti</i> Probability that amendments will be voted October 5, President Borno having expressed entire agreement. | 75 |
| Oct. 5 (135) | <i>From the High Commissioner in Haiti (tel.)</i> Desire of Council of State to further amend article 72 so as to allow President Borno to serve 6 years; President Borno's request to Council that since there is not time to obtain Department approval they not make the desired change. | 76 |
| Oct. 12 (1095) | <i>From the High Commissioner in Haiti</i> Passage and approval, October 5, of proposed amendments to Haitian Constitution of 1918. (Footnote: Information that the amendments were adopted by a plebiscite held January 10-11, 1928.) | 76 |

HAITI

AMENDMENTS TO THE HAITIAN ELECTORAL LAW OF 1919

| Date and number | Subject | Page |
|------------------------|--|------|
| 1927 July 1 (38) | <i>To the Chargé in Haiti (tel.)</i> Inquiry as to present status of electoral law. | 77 |
| July 9 (67) | <i>From the Chargé in Haiti (tel.)</i> Information that electoral law has been referred to Minister of Interior for study and preparation of text reforming old law. | 77 |
| Sept. 16 (74) | <i>To the Chargé in Haiti (tel.)</i> Instructions to inform Haitian President that Department would like to examine proposed electoral law before it is acted upon by Council of State. | 77 |
| Sept. 17 (119) | <i>From the Chargé in Haiti (tel.)</i> Provisions of law modifying certain articles of electoral law of 1919, and text of amended article 62. | 78 |
| Sept. 21 (78) | <i>To the Chargé in Haiti (tel.)</i> Desire to give all possible assistance so that new provisions may become effective in time for 1928 elections; inability, however, to give opinion as to certain doubtful amendments, and objection to portion of amended article 62 giving local authorities right to imprison voters for reasons which do not appear very substantial. | 79 |
| Sept. 23 (122) | <i>From the Chargé in Haiti (tel.)</i> Modification of some amendments so as to meet U. S. objections; President's belief that article 62 as amended is necessary. | 80 |
| Sept. 29 (128) | <i>From the High Commissioner in Haiti (tel.)</i> Passage of law modifying electoral law, with inclusion of article 62. The President's willingness to make verbal agreement not to permit application of article 62 without agreement with High Commissioner, and statement that article could be canceled next year. | 80 |

OPPOSITION OF THE HAITIAN GOVERNMENT TO PROPOSED VISIT OF SENATOR WILLIAM H. KING TO HAITI

| | | |
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| 1927 Mar. 8 (10) | <i>From the High Commissioner in Haiti (tel.)</i> Letter of Senator William H. King to president of Patriotic Union, February 22, stating plan to visit Haiti to study conditions there (text printed). President Borno's intention, unless Senator King is visiting Haiti as a representative of the Senate, to request Department to inform him that his contemplated visit is not acceptable to Haitian Government. | 81 |
| Mar. 9 (9) | <i>To the High Commissioner in Haiti (tel.)</i> Information to Haitian Minister, in reply to request outlined in telegram No. 10 of March 8, that Department was without authority to interfere. Permission to so advise President Borno, adding that visit is unofficial, and that more might be gained by admitting Senator King than by preventing his visit. | 81 |
| Mar. 12 | <i>From Senator William H. King (tel.)</i> Inquiry whether Department approves Haitian official notice received by Senator King in Porto Rico that access to territory of Haiti is denied him. | 82 |

HAITI

OPPOSITION OF THE HAITIAN GOVERNMENT TO PROPOSED VISIT OF SENATOR
WILLIAM H. KING TO HAITI—Continued

| Date and number | Subject | Page |
|-----------------|---|------|
| 1927 Mar. 12 | <i>To the Governor of Porto Rico (tel.)</i> Communication for transmission to Senator King (text printed), regretting Haitian action, but recognizing that right of a person to enter is a domestic question with which another country has no legal right to interfere and stating that the Department does not see what further action it can take if Haitian Government insists on refusing entrance to Senator King. | 83 |
| Mar. 17 (17) | <i>From the Chargé in Haiti (tel.)</i> Information that incident appears closed, Senator King having decided not to enter Haiti. | 83 |

DISINCLINATION OF THE DEPARTMENT OF STATE TO SUPPORT THE BRITISH GOVERNMENT IN CLAIMS AGAINST HAITI REJECTED BY THE HAITIAN CLAIMS COMMISSION

| | | |
|--------------------------|---|----|
| 1927 Feb. 15 (950) | <i>From the High Commissioner in Haiti</i> British appeal to the Haitian Government from decisions of Haitian Claims Commission in three cases involving claims of British subjects for destruction of property during revolutions in Haiti. | 84 |
| Mar. 16 (191) | <i>From the British Ambassador</i> Request for assurance that U. S. Government will take no action to deter Haitian Government from recognizing the claims in question. | 84 |
| Apr. 2 | <i>To the British Ambassador</i> Reply that, in absence of complete knowledge of the facts, Department is not prepared to state what reply it would make should Haiti request its advice. | 85 |
| Apr. 8 (241) | <i>From the British Ambassador</i> Impression that Department was familiar with details of the claims in question; request for expression of attitude U. S. Government intends to adopt. | 86 |
| July 13 | <i>To the British Ambassador</i> Information that the claims have not been brought to Department's attention by Financial Adviser of Haiti; opinion that it would be premature to assume any attitude with regard to a matter concerning which Haitian Government may never seek advice. | 87 |
| Nov. 7 | <i>Memorandum by the Assistant to the Under Secretary of State</i> Résumé of Department's attitude regarding the claims in question, and report of informal explanation to British Embassy official of reasons which led Department to take the position expressed in note of July 13. | 88 |

HONDURAS

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND HONDURAS, SIGNED DECEMBER 7, 1927

| Date and number | Subject | Page |
|-------------------------|--|------|
| 1926 July 12 (25) | <i>To the Minister in Honduras (tel.)</i> Inquiry whether Honduras is willing to begin negotiations with United States for a treaty of friendship, commerce and consular rights providing for unconditional most-favored-nation treatment, to supersede treaty of 1864. | 92 |
| July 20 (44) | <i>From the Minister in Honduras (tel.)</i> Willingness of Honduras to enter into proposed negotiations. | 92 |
| July 28 (77) | <i>To the Minister in Honduras</i> Transmittal of copies of draft treaty, with statement designed to make clear U. S. position concerning general features and respecting various provisions. | 93 |
| Aug. 14 (50) | <i>From the Minister in Honduras (tel.)</i> Submittal of draft treaty to Foreign Office. | 94 |
| 1927 June 22 | <i>Memorandum by the Assistant to the Solicitor</i> Conversation in which American Minister to Honduras stated that Honduras wished to have exceptions added to article 7 in respect of commercial arrangements with other Central American countries and to article 11 in respect of coasting trade, similar to the exceptions included in U. S. treaty with Salvador. | 94 |
| Aug. 16 (181) | <i>To the Minister in Honduras</i> Acceptance of exceptions desired by Honduras, with explanation of differences between text of draft now being negotiated with Honduras and text signed with Salvador; also explanation of most-favored-nation clause regarding commercial travelers. | 95 |
| Sept. 9 (442) | <i>From the Minister in Honduras</i> Report covering further negotiations concerning wording of treaty, and transmittal of copy containing all changes which have been agreed to. | 99 |
| Oct. 19 (198) | <i>To the Minister in Honduras</i> Transmittal of copies of treaty for signature. | 100 |
| Dec. 7 (75) | <i>From the Minister in Honduras (tel.)</i> Signature of treaty. | 100 |
| Dec. 7 | <i>Treaty Between the United States of America and Honduras</i> Of friendship, commerce and consular rights. | 101 |

SUPPLEMENTARY EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND HONDURAS, SIGNED FEBRUARY 21, 1927

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| 1926 Sept. 17 (89) | <i>To the Minister in Honduras</i> Instructions for negotiating a convention to supplement the existing extradition convention of January 15, 1909, by providing for extradition for (1) violation of the narcotic laws and (2) infractions of the customs laws or ordinances which may constitute crimes. | 115 |
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HONDURAS

SUPPLEMENTARY EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND HONDURAS, SIGNED FEBRUARY 21, 1927—Continued

| Date and number | Subject | Page |
|------------------------|---|------|
| 1926 Oct. 9 (60) | <i>From the Minister in Honduras (tel.)</i> Agreement by Honduras to supplementary convention as submitted; request for full powers and instructions. (Footnote: Information that full powers were transmitted with instruction No. 101, October 20, 1926.) | 116 |
| 1927 Feb. 21 | <i>Supplementary Extradition Convention Between the United States of America and Honduras</i> For enlarging the list of offenses on account of which extradition may be granted. | 116 |

ITALY

DESTRUCTION OF THE HYDROPLANE OF COMMANDER DE PINEDO AT ROOSEVELT DAM, ARIZONA

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| 1927 Mar. 19 | <i>To the Italian Ambassador</i> Information that copies of Ambassador's note of March 14 giving itinerary of Commander De Pinedo's hydroplane have been transmitted to officials concerned, with a view to extension of the usual courtesies and facilities. | 119 |
| Apr. 7 | <i>To the Italian Ambassador</i> Regret concerning accident which resulted in destruction of Commander De Pinedo's hydroplane at Roosevelt Dam; offer of all possible assistance in assembling new plane upon its arrival in United States. | 119 |
| Apr. 7 (47) | <i>From the Ambassador in Italy (tel.)</i> Information that American Ambassador has telegraphed Mussolini expressing regret for destruction of hydroplane. | 120 |
| Apr. 8 (1211) | <i>From the Ambassador in Italy</i> Exchange of telegrams (texts printed) in which Ambassador expressed regret, promising a thorough investigation, and Mussolini stated that Italy saw no connection whatsoever between the incident and the fact that it took place on U. S. territory. Suggestion that in view of anti-Fascist sentiment in United States, special attention be given to protecting the flyer. | 120 |
| Apr. 8 (29) | <i>To the Ambassador in Italy (tel.)</i> Statement of De Pinedo that tragedy could in no way be connected with a plot against Fascism; instructions to try to dispel any misapprehensions that may have arisen from charges of sabotage. | 122 |
| Apr. 8 | <i>From Mr. S. E. Stretton, Substation Superintendent, to Mr. F. J. Paine, District Sales Manager, Standard Oil Company of California</i> Detailed report of refueling of seaplane, indicating that blame for destruction should be placed solely upon Italian crew. | 123 |

ITALY

DESTRUCTION OF THE HYDROPLANE OF COMMANDER DE PINEDO AT ROOSEVELT DAM, ARIZONA—Continued

| Date and number | Subject | Page |
|------------------------|---|------|
| 1927 Apr. 9 (51) | <i>From the Ambassador in Italy (tel.)</i> Information that in the light of De Pinedo's statement which has been published in Italy it is generally understood that accident had no anti-Fascist connection. | 125 |
| June 17 (82) | <i>From the Ambassador in Italy (tel.)</i> Extension of congratulations to Mussolini upon De Pinedo's return from air voyage. (Footnote: Information that flyer had continued his flight in another plane sent from Italy.) | 125 |

ACTIVITIES OF UNIFORMED FASCIST ORGANIZATIONS IN THE UNITED STATES

| | | |
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| 1927 Oct. 24 (1442) | <i>From the Ambassador in Italy</i> Extract from official bulletin of Fascist League of North America, October 1 (text printed), quoting (1) Mussolini's message requesting Italians in United States to preserve a double sense of honor: respect for America and for the prestige of Italy; and (2) oath required of League's members. | 125 |
| Nov. 26 | <i>Memorandum by the Assistant Secretary of State</i> Conversation in which Italian Ambassador said that Mussolini had issued orders to all Fascist organizations not to march in uniform in foreign countries and that he wanted it known that persons marching in uniform would do so contrary to the advice of the Italian Government. | 128 |

REPRESENTATIONS BY THE ITALIAN AMBASSADOR REGARDING NEWSPAPER ATTACKS IN THE UNITED STATES AGAINST THE ITALIAN GOVERNMENT

| | | |
|-----------------|---|-----|
| 1927 Apr. 11 | <i>From the Italian Ambassador</i> Representations concerning attack by a New York newspaper against King of Italy, and inquiry as to measures U. S. Government will think it advisable to adopt. | 129 |
| July 14 | <i>From the Italian Ambassador</i> Representations concerning further attacks by New York newspapers against King of Italy. | 129 |
| July 19 | <i>To the Italian Ambassador</i> Information that inquiry discloses that article referred to in Ambassador's note of April 11 is not unmailable under U. S. laws nor does its publication constitute infringement of any Federal statute; promise to communicate substance of reply to inquiry addressed to New York State authorities for an opinion as to whether article is actionable under any of the statutes of that State. (Footnote: No final reply from New York State authorities appears in files.) | 130 |
| July 29 | <i>To the Italian Ambassador</i> Regret concerning publication of material enclosed with note of July 14; opinion, however, that there would be no likelihood of successful prosecution under U. S. laws. | 130 |

ITALY

REPRESENTATIONS BY THE ITALIAN AMBASSADOR REGARDING NEWSPAPER ATTACKS IN THE UNITED STATES AGAINST THE ITALIAN GOVERNMENT—CON.

| Date and number | Subject | Page |
|-----------------|--|------|
| 1928 Jan. 4 | <i>From the Italian Ambassador</i> Representations concerning editorial published December 8, 1927 (excerpt printed) containing incitement to murder King of Italy. | 131 |
| Jan. 12 | <i>To the Italian Ambassador</i> Repetition of regret and opinion expressed in note of July 29, 1927. | 131 |

LATVIA

AGREEMENT BETWEEN THE UNITED STATES AND LATVIA REGARDING MUTUAL RECOGNITION OF SHIP MEASUREMENT CERTIFICATES

| | | |
|---------------------------|--|-----|
| 1927 Dec. 12 (4934) | <i>From the Minister in Latvia</i> Notes by which Latvia and United States agree to mutual recognition of U. S. and Latvian ship measurement certificates, effective in Latvia November 15 and in United States November 9 (texts printed). | 133 |
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LIBERIA

ASSUMPTION BY THE DEPARTMENT OF STATE OF FUNCTIONS ALLOTTED TO IT IN AGREEMENTS BETWEEN THE FIRESTONE INTERESTS AND THE LIBERIAN GOVERNMENT

| | | |
|-----------------|--|-----|
| 1927 Jan. 28 | <i>From Messrs. Shearman & Sterling</i> Inquiry whether Department will undertake obligations imposed by loan agreement of September 1, 1926, between Liberia, Finance Corporation of America, and National City Bank of New York as Fiscal Agent. | 136 |
| Mar. 3 | <i>To Messrs. Shearman & Sterling</i> Information that Liberian Government is being advised that obligations imposed by loan agreement will be assumed by Department upon retirement of bonds issued under 1912 agreement. | 136 |
| Mar. 4 (334) | <i>To the Chargé in Liberia</i> Note for presentation to Liberian Government (text printed) giving assurance that obligations imposed by new loan agreement will be assumed upon retirement of bonds issued under 1912 agreement. | 138 |
| Mar. 22 | <i>From Mr. Harvey S. Firestone, Jr., to the Liberian Secretary of State</i> Transmittal of text of agreement No. 2 (planting agreement), as ratified by Liberian Legislature, November 10, 1926, and now executed by Firestone Plantations Company, with expressions of appreciation for cooperation and courtesies extended by Liberia during negotiations. | 140 |

LIBERIA

ASSUMPTION BY THE DEPARTMENT OF STATE OF FUNCTIONS ALLOTTED TO IT IN AGREEMENTS BETWEEN THE FIRESTONE INTERESTS AND THE LIBERIAN GOVERNMENT—Continued

| Date and number | Subject | Page |
|------------------------|--|------|
| 1927 Mar. 24 | <i>From Mr. Harvey S. Firestone, Jr.</i> Transmittal of planting agreement, with inquiry concerning approval of arbitration provision and willingness of Department to act when called on in the matter of arbitration. | 141 |
| Apr. 12 | <i>To Mr. Harvey S. Firestone, Jr.</i> Willingness of Department to assume functions allotted under arbitration provision in agreement No. 2. | 141 |
| Apr. 13 (341) | <i>To the Chargé in Liberia</i> Instructions to inform Liberian Government in writing of Department's willingness to assume functions allotted under arbitration provision in agreement No. 2. | 142 |
| May 5 (Dip. 463) | <i>From the Chargé in Liberia</i> Discussion between Chargé and Liberian Secretary of State concerning Liberian reply of April 25 (text printed) to note presented in accordance with Department's instruction No. 334 of March 4, and Liberian misunderstanding of Department's purpose in referring to refundment of 1912 debt. | 142 |
| May 6 (16) | <i>To the Chargé in Liberia (tel.)</i> Explanation that no reflection upon good faith of Liberian Government was intended; instructions to make necessary explanation to dispel all misunderstanding. | 144 |
| May 7 | <i>From Mr. Harvey S. Firestone, Jr., to Mr. Harvey S. Firestone</i> Transmittal of loan agreement, with résumé of negotiations and of arrangements made to carry out transition, July 1, 1927, from loan agreement of 1912 to new loan agreement. | 144 |
| May 10 (24) | <i>From the Chargé in Liberia (tel.)</i> Assurance that any misunderstanding concerning Department's position has been dispelled. | 147 |
| May 21 | <i>From Mr. Harvey S. Firestone, Jr., to Mr. Harvey S. Firestone</i> Transmittal of agreements Nos. 1 and 2, with résumé of negotiations leading to their execution. | 147 |
| July 5 | <i>From Messrs. Shearman & Sterling</i> Letter from National City Bank of New York to Finance Corporation of America, July 1 (text printed), stating that 1912 bonds have been called for redemption. Assumption that Department is prepared to recognize new loan agreement as in full force and effect. | 150 |
| July 14 | <i>To Messrs. Shearman & Sterling</i> Information that, in view of provision made for payment of 1912 bonds and the payment of Liberian debt to United States effected July 6, U. S. Government is pleased to accept responsibilities allotted under new agreement. | 151 |
| July 14 | <i>To President Coolidge</i> Text of articles defining responsibilities under new loan agreement, and recommendation that Sidney de la Rue be designated Financial Adviser. | 152 |
| July 18 | <i>From the Secretary to the President</i> Approval by President of designation of Sidney de la Rue as Financial Adviser. | 156 |

LIBERIA

ASSUMPTION BY THE DEPARTMENT OF STATE OF FUNCTIONS ALLOTTED TO IT IN AGREEMENTS BETWEEN THE FIRESTONE INTERESTS AND THE LIBERIAN GOVERNMENT—Continued

| Date and number | Subject | Page |
|-------------------------|--|------|
| 1927 July 29 (23) | <i>To the Chargé in Liberia (tel.)</i> Note for presentation to Liberian Secretary of State (text printed) designating Sidney de la Rue for appointment as Financial Adviser. | 156 |
| Aug. 9 (Dip. 499) | <i>From the Chargé in Liberia</i> Report that note was presented August 2; that De la Rue was formally commissioned June 27; and that his letter of acceptance, August 3 (text printed), transmits names of nominees for positions of Supervisor of Customs and Supervisor of Internal Revenue. | 157 |
| Aug. 20 (870/D) | <i>From the Liberian Secretary of State to the American Chargé</i> Information that designation of De la Rue for appointment as Financial Adviser is agreeable and acceptable to the Liberian Government. | 158 |

PAYMENT BY THE GOVERNMENT OF LIBERIA OF ITS WORLD WAR DEBT TO THE GOVERNMENT OF THE UNITED STATES

| | | |
|----------------------------|---|-----|
| 1926 Dec. 31 | <i>To the Under Secretary of the Treasury</i> Information that article XI of the recent loan agreement between the Finance Corporation of America and Liberia (text printed) provides for payment of Liberian debt to United States, amounting to \$26,000 with interest, and that the Fiscal Agent has been asked the probable date upon which the question of payment may be taken up. | 159 |
| 1927 Jan. 8 | <i>To the Under Secretary of the Treasury</i> Letter from Fiscal Agent, January 4 (extract printed), stating that answer to inquiry will be made after conference with Liberian representative who is due in New York about January 20. | 161 |
| Apr. 12 | <i>To the Secretary of the Treasury</i> Letter from Receiver General of Customs of Liberia, April 6 (text printed), stating that certain moneys will be available for refunding and settlement of Liberia's debts on July 1; that he has not been instructed to negotiate any reduction in the debt in question; and that he will be glad to be informed as to what will be expected with reference to closing this account, so that due provision may be made therefor. | 161 |
| Apr. 14 | <i>From the Under Secretary of the Treasury</i> Statement of advances made and payments received from Liberia against these advances (text printed), showing total amount due as of July 6, 1927, to be \$35,610.46. | 162 |
| Apr. 26 (392/ M. F.) | <i>From the Liberian Secretary of State</i> Arrangements for settlement of Liberian debt on or about July 6, 1927. | 165 |
| July 6 | <i>Press Release Issued by the Liberian Consulate General at Baltimore</i> Announcement of payment of Liberian debt, with remarks made by the Liberian Consul General, July 6, and letter of felicitation from the Secretary of the Treasury (texts printed). | 166 |

MEXICO

GOOD OFFICES OF THE AMERICAN DEPARTMENT OF STATE AND THE BRITISH FOREIGN OFFICE TO INDUCE AMERICAN AND BRITISH OIL INTERESTS IN MEXICO TO RESPECT EACH OTHER'S CLAIMS

| Date and number | Subject | Page |
|-------------------|--|------|
| 1927 | | |
| Oct. 6 | <p><i>To the Commercial Counselor of the British Embassy</i> Query whether, in view of desirability of avoiding appearance of controversy between British and American oil interests, the British Minister in Mexico might be asked for a report in the matter of a request by the British-owned Aguila Company for permission to drill oil on certain American-owned lands.</p> | 169 |
| Oct. 20 | <p><i>From the Commercial Counselor of the British Embassy</i> Information that application was for exploration permit, not drilling permit, and is in accord with existing agreed procedure of Association of Oil Producers in Mexico, but that British company is willing to conform to any amendment of existing agreed procedure adopted by Association as a whole.</p> | 169 |
| Oct. 25 (1485) | <p><i>To the Chargé in Mexico</i> Transmittal of British note of October 20, with comment that Department has no knowledge of agreement between members of Association of Oil Producers in Mexico covering procedure in question and that inquiry is being made concerning it.</p> | 170 |
| Oct. 29 (2) | <p><i>To the Ambassador in Mexico</i> Information that agreement of Oil Producers' Association not to apply for concessions under Petroleum Law covers only lands owned by Association members, but that Mexican Petroleum Company representative will raise question of extension to all except Mexican-owned lands and will attempt to arrange withdrawal of application for exploratory concession.</p> | 171 |
| Nov. 30 | <p><i>From the British Ambassador</i> Application by American-owned Richmond Petroleum Company for concessions on lands owned by British-owned Mexican Estates Company, not an Association member; request that Department secure assurance that Richmond Company will conform to any amendment of existing agreed procedure which may be adopted by Association as a whole.</p> | 172 |
| Dec. 12 | <p><i>To the British Ambassador</i> Information that the British and American interests are negotiating in New York to settle the Richmond Petroleum Company matter, and that the Aguila matter has been satisfactorily arranged.</p> | 173 |
| Dec. 16 | <p><i>From the British Ambassador</i> Request to be informed in due course of result of negotiations in progress in New York.</p> | 174 |
| Dec. 31 | <p><i>To the British Ambassador</i> Letter from Richmond Petroleum Company representative in New York, December 30 (extract printed), advising that Mexican Estates Company was admitted to special membership in the Association on November 22, and that minority owners of certain lands in Tonalapa, including Mexican Estates Company, are conducting negotiations with private leaseholder for adjustment of their interests.</p> | 174 |
| 1928 | | |
| Jan. 12 | <p><i>From the British Ambassador</i> Expression of appreciation for information supplied in letter of December 31, 1927.</p> | 175 |

MEXICO

PROTECTION OF RIGHTS OF AMERICAN OWNERS OF OIL LANDS IN MEXICO

| Date and number | Subject | Page |
|-------------------|---|------|
| 1927 Feb. 15 | <i>To President Coolidge</i> Statement, in response to Senate resolution of February 3 (text printed), that no oil concession was granted by Mexico prior to May 1, 1917, American rights having been acquired by arrangements with previous owners, and under laws then existing (excerpts printed); that, of owners of oil lands acquired prior to May 1, 1917, only four have applied for confirmatory concessions, others having refused or failed to accept provisions of petroleum law; that Department has given no advice but has only supplied information as to general U. S. position respecting rights of American nationals; and that requested supplying of correspondence would not throw light on situation and might prejudice American rights in Mexico. | 176 |
| Apr. 11 (3954) | <i>From the Ambassador in Mexico</i> Indications that, refusal of companies to accept or apply for confirmatory concessions having been made pretext for denial of drilling permits, foreign interests are likely to drill wells without permits, or to suspend production entirely. | 181 |
| June 15 (4275) | <i>From the Chargé in Mexico</i> Notification issued by Department of Industry (text printed) to the effect that military escorts will prevent continued extraction of oil at all places where closing of wells is ordered for nonfulfillment of requirements of the petroleum law. | 184 |
| June 25 (4338) | <i>From the Chargé in Mexico</i> Information that certain companies have commenced drilling operations despite refusal of drilling permits. | 185 |
| July 14 (264) | <i>From the Chargé in Mexico (tel.)</i> Receipt of instructions by several of the companies mentioned in despatch No. 4338 of June 25, not to proceed with drilling operations. | 185 |
| Aug. 8 (4617) | <i>From the Chargé in Mexico</i> Information that decision of companies to defer drilling was influenced by several factors: By argument of Mexican counsel of Huasteca Company that to drill without permits would amount to conspiracy against the Mexican Government, by Mexican Government's intention to prevent drilling, by onset of rainy season, and by overproduction of petroleum elsewhere. | 185 |
| Nov. 8 | <i>From the Ambassador in Mexico</i> Report of presentation of letter of credence, October 29, and of conversations with President Calles at Santa Barbara, November 2, and at Castle of Chapultepec, November 8; the President's statement, in conversation of November 8, upon assurance that a decision of the Supreme Court following the Texas case would remove the main difficulty in the oil dispute, that such a decision could be expected within 2 months. | 187 |
| Nov. 16 | <i>To the Ambassador in Mexico</i> Acknowledgment of report of preliminary conversations, and assurance that nothing will be said to oil interests concerning pending Court decision. | 193 |

MEXICO

PROTECTION OF RIGHTS OF AMERICAN OWNERS OF OIL LANDS IN MEXICO—Con.

| Date and number | Subject | Page |
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| 1927 Nov. 16 (27) | <i>To the Ambassador in Mexico</i> Importance of endeavoring to reach general agreement with Mexican Government for recognition of valid American property rights rather than to make repeated representations in individual cases; suggestion that, pending such an agreement, Mexican authorities might be prevailed upon to give assurances that no affirmative steps looking to confiscation or impairment of American property rights would be taken. | 194 |
| Nov. 17 (412) | <i>From the Ambassador in Mexico (tel.)</i> Decision of Supreme Court holding articles 14 and 15 of petroleum law unconstitutional. | 195 |
| Nov. 20 (418) | <i>From the Ambassador in Mexico (tel.)</i> Conversation in which President Calles expressed pleasure concerning Supreme Court decision and made it clear that he wished all substantial rights of the oil companies to be observed. | 196 |
| Nov. 17 | <i>Translation of Opinion in the Mexican Petroleum Company's Suit for "Amparo"</i> As announced by the Supreme Court of Mexico. (Footnote: Information, by despatch No. 148, December 5, from the Chargé in Mexico, that formal opinion was signed December 2.) | 197 |

ADDRESS OF PRESIDENT COOLIDGE BEFORE UNITED PRESS ASSOCIATION, APRIL 25, 1927, AND COMMENTS OF PRESIDENT CALLES THEREON

| | | |
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| 1927 Undated | <i>Address Delivered by President Coolidge at the Dinner of the United Press Association at New York, April 25, 1927</i> In which the President outlined some of the difficulties the United States has recently been trying to work out with foreign nations, especially with Mexico, and expressed the view that adjustment with Mexico would be more likely to be secured through negotiation than arbitration. | 209 |
| Apr. 27 (4031) | <i>From the Ambassador in Mexico</i> Questionnaire submitted to President Calles by Mexican press representatives, April 26, with regard to address of President Coolidge on April 25, and President Calles' comments thereon (text printed). | 221 |

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROPOSALS TO ARBITRATE DIFFERENCES ARISING FROM THE MEXICAN LAND AND PETROLEUM LAWS

| | | |
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| 1927 Jan. 18 | <i>Senate Resolution 327 As Submitted by Senator Joseph T. Robinson</i> Suggesting that controversies with Mexico relating to alleged retroactive and confiscatory provisions of Mexican land and petroleum laws be submitted to arbitration. | 225 |
| Jan. 18 | <i>Press Release Issued by the Department of State</i> Statement by the Secretary of State that for some time he had been giving consideration to question of definite application of the principle of arbitration to the existing controversy with Mexico. | 226 |

MEXICO

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROPOSALS TO ARBITRATE
DIFFERENCES ARISING FROM THE MEXICAN LAND AND PETROLEUM LAWS—
Continued

| Date and number | Subject | Page |
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| 1927 Undated | <i>Memorandum by the Secretary of State of a Conversation With the Chilean Ambassador, January 18, 1927</i> In which the Chilean Ambassador quoted the Mexican Foreign Minister and President Calles to the effect that if United States should propose arbitration, such proposal would be favorably considered by the Mexican Government. | 226 |
| Jan. 19 (25) | <i>From the Ambassador in Mexico (tel.)</i> Informal statement of Chief of Diplomatic Bureau that Mexican Government would not admit right of any foreign authority to pass upon the legality or validity of internal laws of Mexico, but that it would be glad to submit to arbitration concrete cases involving American rights. | 227 |
| Undated | <i>Memorandum by the Secretary of State of a Conversation With the Chilean Ambassador, January 21, 1927</i> In which Chilean Ambassador said he had heard from Mexico that arbitration suggestion was very satisfactory; the Secretary's reply that Mexican Government was continuing its confiscatory acts in full knowledge of U. S. position; his declination to permit the Ambassador to make any suggestions to Mexico on the subject. | 227 |
| Jan. 25 | <i>Senate Resolution 327</i> As amended and agreed to. | 228 |

CONVENTION BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION
OF THE GENERAL CLAIMS COMMISSION PROVIDED FOR IN CONVENTION OF SEP-
TEMBER 8, 1923, SIGNED AUGUST 16, 1927

| | | |
|-----------------|---|-----|
| 1927 Aug. 16 | <i>Convention Between the United States of America and Mexico</i> Extending duration of General Claims Commission provided for in convention of September 8, 1923. (Note: Information that the Mexican Government declined to sign protocol of same date providing for continuance of work of Joint Secretaries and respective agencies of the two Governments, pending ratification of this convention.) | 228 |
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TERMINATION OF THE CONVENTION BETWEEN THE UNITED STATES AND MEXICO
TO PREVENT SMUGGLING, SIGNED DECEMBER 23, 1925

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| 1927 Mar. 21 (69) | <i>To the Ambassador in Mexico (tel.)</i> Note for Foreign Minister (text printed), terminating smuggling convention of 1925 as of March 28, 1927, and statement to be given to press by Department (text printed) upon receipt of advice that note has been delivered. | 230 |
| Mar. 23 (3853) | <i>From the Ambassador in Mexico</i> Delivery of note on March 21; Foreign Minister's reply, March 22 (text printed), stating that Mexico considers convention terminated as of March 28. | 231 |

LIST OF PAPERS

MEXICO

RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE OVER THE RIO GRANDE BOUNDARY

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| 1927 Mar. 30 (1263) | <i>To the Ambassador in Mexico</i> Instructions to inform Foreign Office that U. S. Government is prepared to instruct American Commissioner on International Boundary Commission to proceed with drafting of a convention for dealing with rectification of the channel of the Rio Grande, upon being advised that Mexican Government will send similar instructions to Mexican Commissioner. | 232 |
| Apr. 27 (4029) | <i>From the Ambassador in Mexico</i> Mexican note, April 25 (text printed), advising that instructions are being issued to Mexican Commissioner to proceed with drafting of convention. | 232 |

ADMINISTRATION OF THE EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO MEXICO

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| 1926 July 30 (248) | <i>To the Chargé in Mexico (tel.)</i> Removal from embargo, July 21, of nonmilitary aircraft destined to points in Mexico. | 233 |
| Oct. 15 | <i>From the Mexican Chargé</i> Request for permit for eight Douglas airplanes of type used by American Army, and equipment. | 233 |
| Dec. 16 | <i>To President Coolidge</i> Considerations which move Secretary not to grant the permit requested. | 234 |
| Dec. 16 | <i>To the Mexican Ambassador</i> Information that export permit has been denied and statement that general question of maintenance of arms embargo is being reconsidered by U. S. Government. | 235 |
| Dec. 23 | <i>From the Mexican Ambassador</i> Expression of thanks for intimation that arms embargo is being reconsidered, and explanation that Mexico has at no time taken steps with U. S. Government for maintaining or lifting it. | 235 |
| Dec. 29 (3454) | <i>From the Ambassador in Mexico</i> Press information that, despite export prohibition, four of the Douglas airplanes ordered were received and are operating in Yaqui district; publication in another newspaper, however, of despatch from Nogales, Arizona, to effect that eight airplanes are being held there. | 236 |
| 1927 Jan. 8 (1164) | <i>To the Ambassador in Mexico</i> Memorandum by the Assistant Chief of the Division of Mexican Affairs (text printed), stating that the four airplanes exported were of nonmilitary type and that the four others are at Nogales under surveillance of Customs Collector, and advising Department's decision to reimpose embargo upon all aircraft destined for Mexico, regardless of purpose for which intended. | 237 |

MEXICO

ADMINISTRATION OF THE EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS
TO MEXICO—Continued

| Date and number | Subject | Page |
|-------------------------|--|------|
| 1927 May 31 (218) | <i>From the Ambassador in Mexico (tel.)</i> Presidential decree, May 30 (text printed), ordering Federal departments to abstain from purchasing in the United States articles intended for use in the administration of the public service. | 238 |
| June 1 (220) | <i>From the Ambassador in Mexico (tel.)</i> Suggestion that Mexico's objections as set forth in decree of May 30 could be met by lifting the arms embargo. | 239 |
| June 3 (4206) | <i>From the Ambassador in Mexico</i> Foreign Office statement (text printed) explaining reasons leading to issuance of decree of May 30 and declaring that decree does not constitute boycott of American merchandise. | 239 |
| July 6 | <i>From the Mexican Ambassador</i> Representations concerning the confusions and difficulties that have arisen from extension of the embargo to Mexican official shipments without previous notice, and inquiry whether it is a settled policy to extend embargo to official shipments of arms and other war materials. | 240 |
| Oct. 8 | <i>Memorandum by the Assistant Chief of the Division of Mexican Affairs</i> List of American companies which have protested the embargo and have requested that it be modified; recommendation of Embassy in Mexico that embargo situation be given careful consideration. | 242 |
| Oct. 28 (5114) | <i>From the Chargé in Mexico</i> Executive decree, October 27 (text printed), abrogating decree of May 30. | 243 |
| Dec. 3 | <i>To the Mexican Ambassador</i> Release of two shipments of arms intended for Mexico. | 244 |
| Dec. 21 (304) | <i>To the Ambassador in Mexico (tel.)</i> Request for opinion whether this is the opportune time to relax present restrictions on export of arms purchased by the Government of Mexico and detained in the United States. | 245 |
| Dec. 24 (455) | <i>From the Ambassador in Mexico (tel.)</i> Opinion that now would be the opportune time. | 245 |
| Dec. 30 | <i>To the Mexican Ambassador</i> Information that permissions have been granted for export of certain shipments of arms and munitions destined for Mexican Government. | 245 |
| 1928 Mar. 23 (78) | <i>To the Ambassador in Mexico (tel.)</i> Announcement that Department has decided to eliminate commercial airplanes from list of articles destined for Mexico requiring individual export licenses. | 246 |

MEXICO

SUPPRESSION OF ACTIVITIES OF MEXICAN FACTIONS ON THE BORDER IN VIOLATION OF LAWS OF THE UNITED STATES

| Date and number | Subject | Page |
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| 1927 Nov. 4 | <i>From the Mexican Chargé</i> Request for cooperation to the end that necessary measures may be taken to prevent activities of Yaqui refugees in the United States who are plotting an armed movement against Mexican Government. | 246 |
| Dec. 20 | <i>To the Mexican Ambassador</i> Reply that a report dated December 5 (extract printed) has been submitted to the Department showing that activities of different factions on border adjoining Arizona have been watched very closely, in consequence of which a number of indictments have been returned. | 247 |

WITHDRAWAL OF SUBPOENA BY THE UNITED STATES SENATE UPON MEXICAN CONSUL GENERAL AT NEW YORK ON ASSURANCE THAT CONSUL GENERAL WOULD APPEAR VOLUNTARILY

| | | |
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| 1927 Undated | <i>Memorandum by the Under Secretary of State of a Conversation With the Mexican Ambassador, December 12, 1927</i> In which the Under Secretary expressed the opinion that, in the absence of treaty provisions to the contrary, a consul could be summoned to testify as to unofficial matters within his knowledge, and in which the Ambassador expressed the opinion that a consul could not be called at all as a witness in a proceeding such as that pending in the Senate. | 248 |
| Undated | <i>Memorandum by the Under Secretary of State of a Conversation With the Mexican Ambassador, December 13, 1927</i> In which the Ambassador said the position of his Government remained as stated, but that his Government would be willing for the consul general at New York to appear voluntarily and in his personal capacity, provided he did not appear under subpoena. | 250 |
| Undated | <i>Memorandum by the Under Secretary of State of a Conversation With the Mexican Ambassador, December 14, 1927</i> In which the Under Secretary suggested that the Ambassador write a note setting forth the views of his Government and willingness to have consul general appear voluntarily before the Committee in his personal capacity, claiming, of course, immunity from inquiry for his records and official acts. | 250 |
| Dec. 14 | <i>From the Mexican Ambassador</i> Note in accordance with suggestions of the Under Secretary of State. | 250 |
| Dec. 14 | <i>From Senator David A. Reed</i> Withdrawal of subpoena and substitution of invitation for consul general to appear in his personal capacity, with assurances that no attempt will be made to secure any documents or information which can fairly be claimed to be entitled to immunity. | 252 |
| Dec. 16 | <i>To the Mexican Ambassador</i> Appreciation for cooperation in the investigation; necessity, nevertheless, of recording fact that U. S. views on relevant questions of international law do not coincide with those of Mexico and that U. S. position must be regarded as fully reserved. | 252 |

MEXICO

PROTEST BY THE UNITED STATES AGAINST ARBITRARY MANNER OF ARREST AND DEPORTATION OF JOSEPH DE COURCEY FROM MEXICO

| Date and number | Subject | Page |
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| 1927 | | |
| Aug. 10 (307) | <i>From the Chargé in Mexico (tel.)</i> Information that Joseph de Courcy, American citizen and correspondent of <i>New York Times</i> , is being held without charges and is to be deported, and that, after repeated efforts to locate him, Embassy has been informed that he may be seen at police headquarters. | 253 |
| Aug. 10 (310) | <i>From the Chargé in Mexico (tel.)</i> Oral protest to Foreign Office against detaining De Courcy incommunicado and without food or sleeping accommodations, and reminder that the withholding of information as to charges on which he is held is contrary to an informal understanding reached 3 years ago between Embassy and Foreign Office; request for instructions to deliver formal protest. | 254 |
| Aug. 11 (311) | <i>From the Chargé in Mexico (tel.)</i> Information that De Courcy has been put on train for Laredo, Texas, but that no reason has yet been given for his arrest, detention, and expulsion. | 255 |
| Aug. 11 (181) | <i>To the Chargé in Mexico (tel.)</i> Instructions to present formal protest to Acting Foreign Minister. | 255 |
| Aug. 19 (4696) | <i>From the Chargé in Mexico</i> Foreign Office statement to press (excerpt printed) and note, August 18 (text printed), substantiating statement, asserting that Mexico cannot recognize protest, and inquiring whether United States is disposed to notify Mexican Embassy in Washington regarding cases of expulsion or deportation of undesirable Mexican citizens. | 256 |
| Aug. 20 (318) | <i>From the Chargé in Mexico (tel.)</i> Information that a memorandum of June 28, 1924, in Embassy files shows that Foreign Office expressed willingness to permit a secretary of the Embassy to examine original documents in cases of expulsion of any American citizens under article 33 of the Mexican Constitution. | 258 |
| Sept. 15 (1446) | <i>To the Chargé in Mexico</i> Instructions to reply to Mexican note of August 18, stating that U. S. Government does not question right to expel undesirable aliens, but making emphatic protest against harsh treatment accorded Mr. de Courcy and arbitrary manner of his arrest and deportation, and advising that it is unnecessary to notify Mexican Embassy in expulsion cases because accused and counsel are permitted to communicate with nearest Mexican consular officer. (Footnote: Information, by despatch No. 4901, September 22, that note had that day been addressed to the Foreign Office.) | 258 |

MEXICO

GOOD OFFICES OF THE DEPARTMENT OF STATE TO PROCURE FOR HOWARD T. OLIVER AN OPPORTUNITY TO EFFECT AN ADJUSTMENT OF HIS CLAIM AGAINST MEXICO

| Date and number | Subject | |
|-----------------|--|-----|
| 1927 | | |
| Feb. 12 (31) | <i>To the Ambassador in Mexico (tel.)</i> <i>Aide-mémoire</i> for Foreign Office (text printed) reviewing unsuccessful efforts of Oliver American Trading Company to secure adjustment of claim against Mexican Government and expressing hope that Mexican Government will afford opportunity for case to be considered. | 260 |
| Mar. 4 (3775) | <i>From the Ambassador in Mexico</i> Foreign Office memorandum (text printed), explaining Mexican attitude toward Mr. Oliver and his claim, but expressing willingness to permit him to enter Mexico for a reasonable length of time to exercise rights to which he considers himself entitled. | 263 |
| Apr. 7 (84) | <i>To the Ambassador in Mexico (tel.)</i> Instructions to explain to Foreign Office that suspension of expulsion decree against Mr. Oliver does not completely meet situation and to inquire whether Mexican Government might waive technicalities and authorize agent in United States to reopen negotiations discontinued in 1923, on basis of settlement outlined in telegram of December 22, 1922, from Mexican President to financial agent in New York (text printed). | 267 |
| May 3 (4045) | <i>From the Ambassador in Mexico</i> Foreign Office memorandum, April 29 (text printed), declaring that negotiations in question were without binding force for Mexican Government; that case is one of a purely civil character the settlement of which should be entrusted to Mexican courts; and that Mr. Oliver will enjoy the guarantees and facilities granted by Mexican laws. (Footnote: Information that on December 23, 1927, Department was informed Mr. Oliver was leaving for Mexico; that by despatch No. 313, January 31, 1928, the Embassy reported that it had lent its good offices toward a possible settlement; but that Mr. Oliver had failed to secure a settlement of his claim.) | 269 |

MOROCCO

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED AMERICAN RECOGNITION OF THE SPANISH ZONE IN MOROCCO

| | | |
|-----------------|--|-----|
| 1927 | | |
| June 2 | <i>Memorandum by the Assistant Secretary of State</i> Conversation in which Spanish Ambassador took up question of taxes in Spanish Zone and possible U. S. recognition of Zone, which would include giving up capitulations, and asked that the serious consideration promised in 1924 be followed up by a note saying just what would be done in matter of recognition. | 272 |
| July 26 (72-11) | <i>From the Spanish Charge</i> Information that Spanish Government is ready to study certain claims connected with Spanish Morocco and wishes that they be stated anew, together with latest U. S. views. | 272 |
| Oct. 18 (488) | <i>To the Diplomatic Agent and Consul General at Tangier</i> Instructions to submit a résumé of all American claims in Spanish Zone, together with recommendations as to procedure to be followed in their examination. | 273 |

MOROCCO

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED AMERICAN RECOGNITION OF
THE SPANISH ZONE IN MOROCCO—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 Nov. 7 | <i>To the Spanish Ambassador</i> Reiteration of assurances that U. S. recognition of Spanish Zone will be given consideration as soon as claims settlement has been agreed upon; proposal that claims be examined in Tangier by commission composed of American diplomatic agent and Spanish consul general. | 273 |
| Nov. 7 (9) | <i>To the Diplomatic Agent and Consul General at Tangier (tel.)</i> Information concerning proposal as to procedure, with promise of instructions when reply has been received from Spanish Embassy. | 274 |

NETHERLANDS

PROPOSAL TO ALLOCATE TO THE NETHERLANDS GOVERNMENT THE FORMER
GERMAN YAP-MENADO CABLE

| | | |
|-------------------------|--|-----|
| 1927 Feb. 5 (367) | <i>From the Netherlands Chargé</i> Presentation of claim for compensation in behalf of injured Netherlands interests, according to value of Yap-Menado cable plus interest from February 1, 1922, the date on which the Washington agreement of December 31, 1921, for allocation of the cable to the Netherlands Government might have been ratified; information that similar steps are being taken with Governments of Great Britain, France, Japan, and Italy; request for U. S. views. | 275 |
| Mar. 15 | <i>To the British Ambassador</i> Request for British views concerning Netherlands claim; statement that United States would not object to opening of Yap-Menado cable to traffic and operation by Netherlands pending definite allocation of former German cables; inquiry whether Great Britain would attend meeting of First Committee of Electrical Communications Conference of 1920 for discussion of allocation of all ex-German cables should a meeting be arranged. (Similar notes to diplomatic representatives at Washington of France, Italy, and Japan.) | 277 |
| Mar. 31 (213) | <i>From the British Ambassador</i> Reply that Netherlands proposal for cash payment is likely to give rise to insuperable difficulties; that only solution likely to be agreed upon is to deliver cable in full settlement in respect of Netherlands interests in all three Yap cables; that transfer should be expedited; and that British will not accept responsibility for any part of claim put forward as consequence of delay in effecting such transfer. Willingness to attend meeting of First Committee. | 279 |
| May 2 (302) | <i>From the British Ambassador</i> Opinion that cable should be handed over at once to Netherlands without waiting for resumption of work of First Committee. | 280 |

NETHERLANDS

PROPOSAL TO ALLOCATE TO THE NETHERLANDS GOVERNMENT THE FORMER
GERMAN YAP-MENADO CABLE—Continued

| Date and number | Subject | Page |
|--------------------|--|------|
| 1927 | | |
| May 16 | <i>To the British Ambassador</i> Information that Japan has replied that she cannot consent to Netherlands claims and that Japanese Ambassador is authorized to attend meeting of First Committee if called; and that further notes are being addressed to France and Italy urging them to expedite action with respect to matter. | |
| Sept. 28 (542) | <i>From the British Ambassador</i> View that if meeting cannot be held promptly steps should be taken to effect transfer of cable as soon as possible; inability to accept responsibility for any claim in respect of delay in the transfer. | 281 |
| Nov. 2 | <i>To the Netherlands Minister</i> Regret that it has not been found possible to entertain request for payment of claim, and belief that only solution is delivery of cable. | 282 |
| Nov. 2 | <i>To the British Ambassador</i> Information that Italy and Japan have indicated willingness to attend meeting and that attempt is being made to find out whether France would attend; that both France and Italy approve delivery of cable to the Netherlands; and that communication is being addressed to Japan with a view to obtaining statement concerning position with reference to delivery of cable. (Note: Information, November 11, 1927, that Japan was disposed to consent to temporary operation of cable by Netherlands, and, November 12, 1927, that France would take part in meeting of First Committee; failure, however, to reach agreement on proposal for allocation or to adopt any other proposal.) | |

NICARAGUA

EFFORTS BY THE UNITED STATES TO PRESERVE CONSTITUTIONAL GOVERNMENT
IN NICARAGUA

| | | |
|------------------|---|-----|
| 1926 | | |
| Dec. 31 (259) | <i>From the Minister in Nicaragua (tel.)</i> Conference at Legation of Nicaraguan representatives to discuss straitened financial condition of their country; determination of Conservatives to continue fight against revolution to a finish; President Diaz's hope that United States can find way to check Mexican and other outside aid to Liberals. | 285 |
| 1927 | | |
| Jan. 3 (2) | <i>To the Minister in Nicaragua (tel.)</i> Inquiry whether establishment of a Legation guard is vital for protection of Legation and American and foreign lives and property. | 286 |
| Jan. 4 (5) | <i>From the Minister in Nicaragua (tel.)</i> Information from Diaz that he is unable to guarantee protection of American and other foreign lives; receipt of representations from British and Italian Chargés that they consider their nationals in imminent peril without outside protection; opinion that establishment of Legation guard would contribute toward improvement of conditions and ultimate solution. | 286 |

NICARAGUA

EFFORTS BY THE UNITED STATES TO PRESERVE CONSTITUTIONAL GOVERNMENT
IN NICARAGUA—Continued

| Date and number | Subject | |
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| 1927 | | |
| Jan. 4 | <i>To the Minister in Nicaragua (tel.)</i> | 287 |
| (5) | Issuance of order to Commander, Special Service Squadron, to send force of marines from U.S.S. <i>Galveston</i> to Managua to act as Legation guard; instructions to inform President Diaz and to arrange necessary details. | |
| Jan. 6 | <i>To the Minister in Nicaragua (tel.)</i> | 287 |
| (8) | Instructions to inform commander of Legation guard of representations made by British and Italian Chargés and to forward text thereof to Department. (Footnote: Information that representations were forwarded in despatch No. 332, January 12.) | |
| Jan. 6 | <i>From the Minister in Nicaragua (tel.)</i> | 288 |
| (8) | Arrival of Legation guard. | |
| Jan. 7 | <i>To the Minister in Nicaragua (tel.)</i> | 288 |
| (11) | Instructions to accord to Belgian nationals such protection as may be possible and proper, in view of Belgian Ambassador's request for their protection. | |
| Jan. 10 | <i>Message of the President of the United States to Congress</i> | 288 |
| | Résumé of U. S. relations with Nicaragua since 1912; intention to use Executive power to insure adequate protection of all American interests in Nicaragua. | |
| Jan. 10 | <i>To the Minister in Nicaragua (tel.)</i> | 298 |
| (15) | Necessity for Nicaraguan Government itself to solve internal controversy; readiness of United States to extend good offices; instructions to explore possibilities and render opinion. | |
| Jan. 13 | <i>From the Minister in Nicaragua (tel.)</i> | 299 |
| (13) | Report of progress of plan for bringing two factions together in preliminary conferences; belief that Liberals will demand U. S. supervision of 1928 elections. | |
| Jan. 15 | <i>From the Consul at Bluefields</i> | 300 |
| (204) | Report of fairly stable conditions since battle of Pearl Lagoon, December 24-25, 1926, and of declaration by American naval forces of neutral zones at Puerto Cabezas, Rio Grande, Pearl Lagoon, Prinzapolca, and Rama. | |
| Jan. 18 | <i>From the Minister in Guatemala (tel.)</i> | 300 |
| (10) | Offer of Guatemalan good offices to Nicaragua. Indications that Liberal leader, Sacasa, will continue attitude of intransigency while professing to favor mediation of Costa Rica. | |
| Undated | <i>Reply of President Coolidge to the Remarks Made by the Newly Appointed Nicaraguan Minister Upon the Presentation of His Letters of Credence, January 20, 1927</i> | 301 |
| | Gratification that it is once more possible to resume official relations and that steps are being taken to compose factional differences in Nicaragua. | |
| Jan. 22 | <i>To the Minister in Nicaragua (tel.)</i> | 302 |
| (27) | Associated Press account of interview with Sacasa at Puerto Cabezas, January 21 (text printed), in which he expressed favorable attitude toward U. S. supervision of 1928 elections but also suggested joint supervision by United States and Central American Republics. U. S. willingness to supervise elections, either alone or jointly, if both parties so desire. Instructions to ascertain whether public statement to this effect would be satisfactory to Nicaraguan Government. | |

NICARAGUA

EFFORTS BY THE UNITED STATES TO PRESERVE CONSTITUTIONAL GOVERNMENT IN NICARAGUA—Continued

| Date and number | Subject | Page |
|-----------------|---|------|
| 1927 | | |
| Jan. 24 (24) | <i>From the Minister in Nicaragua (tel.)</i> Information that Diaz has already announced publicly acceptance of U. S. supervision of 1928 elections, but that he believes, as does American Minister, that joint supervision with Central American governments would be impracticable and undesirable. | 303 |
| Jan. 27 | <i>To the Secretary of the Navy</i> Message for Admiral Latimer (text printed), requesting him to dissipate any false impression held by Sacasa as to U. S. policy toward recognition of revolutionary governments. | 304 |
| Jan. 27 (6) | <i>To the Minister in Guatemala (tel.)</i> Instructions to make no more efforts to encourage Guatemala to offer good offices in connection with settlement of Nicaraguan internal difficulties. | 305 |
| Jan. 31 (27) | <i>From the Minister in Nicaragua (tel.)</i> Information that during 3-day visit in Managua, Admiral Latimer met prominent members of both parties, and that Minister reiterated to Liberal committee the opinion that Sacasa would never be recognized by U. S. Government in any circumstances. | 306 |
| Feb. 7 | <i>To the Secretary of the Navy</i> Message for Admiral Latimer (text printed), stating that, contrary to message received from Sacasa revolutionaries accepting U. S. mediation (text printed), United States has made no offer of mediation, but that if U. S. good offices should be invoked by both parties, proposal would be considered; desire that Admiral arrange to communicate this information to Sacasa personally. | 308 |
| Feb. 7 (34) | <i>To the Minister in Nicaragua (tel.)</i> Instructions to investigate reported capture and burning of Chinandega by revolutionary forces, and to advise whether American citizens are serving in Nicaraguan Army. | 307 |
| Feb. 7 (31) | <i>From the Minister in Nicaragua (tel.)</i> Report of fighting and burning in Chinandega; Diaz's belief that revolutionists have recently received arms, possibly through Salvador or Honduras and certainly through Costa Rica. | |
| Feb. 7 (32) | <i>From the Minister in Nicaragua (tel.)</i> Rout of revolutionists who attacked Chinandega; information that two Americans are instructors with Nicaraguan Government constabulary and two are aviators accredited to same service. | 308 |
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| Dec. 6 (216) | <i>To the Chargé in Nicaragua (tel.)</i> Authorization to make known emphatic views of Department that retirement of President Diaz would strike at very root of transaction by which peace and order have been restored and is a proposition which can be entertained by no one interested in carrying out pending plan. Request to be informed immediately whether any faction intends to attack constitutionality or validity of Stimson arrangement. | 385 |
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APPOINTMENT OF LIBERAL "JEFES POLITICOS" IN LIBERAL DEPARTMENTS
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| June 1 (95) | <i>To the Minister in Nicaragua (tel.)</i> Cable from General Moncada to Colonel Stimson and reply (texts printed). Instructions to use influence to have Stimson agreement interpreted liberally. | 399 |
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| June 27 (101) | <i>To the Minister in Nicaragua (tel.)</i> Colonel Stimson and Department's feeling that Liberals should be given other offices as well as <i>jefes politicos</i> in the six Liberal departments unless General Moncada is satisfied with present arrangement. | 400 |
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COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA—Continued

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| 1927 | | |
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| Nov. 1 (311) | <i>From the Chargé in Nicaragua (tel.)</i> Approval of proposed Cumberland survey by both President Diaz and representatives of Liberals, and query as to who is to bear the expenses. | 417 |
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| Nov. 10 (185) | <i>To the Chargé in Nicaragua (tel.)</i> Approval of Chargé's opinion expressed in telegram No. 307 of October 31. | 418 |
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| Nov. 29 | <i>To Dr. W. W. Cumberland</i> Instructions to make survey to ascertain how much money will be needed for certain purposes, the extent to which it can be supplied from Nicaraguan resources, the size of loan to be made and security necessary therefor, and to make recommendations in regard to other related aspects of financial problems of Nicaragua. | 419 |

ATTITUDE OF THE DEPARTMENT OF STATE WITH RESPECT TO LOANS BY AMERICAN BANKERS TO THE GOVERNMENT OF NICARAGUA

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| Jan. 6 (9) | <i>From the Minister in Nicaragua (tel.)</i> Report that Congress is considering law for bond issue to cover claims of present and recent revolutions and for a second customs surcharge and a coffee export tax to provide funds to service the new bonds, the claims to be passed upon by Mixed Claims Commission consisting of one Liberal, one Conservative, and the American High Commissioner. | 421 |

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| Jan. 12 (18) | <i>To the Minister in Nicaragua (tel.)</i> Opinion that restoration of peace is the first essential and that consideration of financial needs of Nicaragua should wait upon it, although there is no objection to the Mixed Claims Commission. | 422 |
| Feb. 9 (38) | <i>From the Minister in Nicaragua (tel.)</i> Inquiry whether Department would object to a loan of \$300,000 contemplated by Rene Keilhauer of R. W. Hebard and Co. to Nicaraguan Government, to be secured by increases in import and export taxes under new law effected February 1. | 423 |
| Feb. 11 | <i>Memorandum by the Chief of the Division of Latin American Affairs</i> Opinion that proposed loan is for worthy purposes and might materially assist in carrying out Department policy in Nicaragua. | 423 |
| Feb. 11 (41) | <i>From the Minister in Nicaragua (tel.)</i> Inquiry as to agreeableness of terms of proposed loan, now increased to \$600,000. | 424 |
| Feb. 11 (39) | <i>To the Minister in Nicaragua (tel.)</i> Nonobjection to loan as outlined in the Minister's telegram No. 38 of February 9. | 424 |
| Feb. 12 (40) | <i>To the Minister in Nicaragua (tel.)</i> Nonobjection to new terms of loan. | 424 |
| Undated | <i>Memorandum by the Chief of the Division of Latin American Affairs of a Conversation With Mr. R. W. Hebard, February 15, 1927</i> In which Mr. Hebard was told that, although Department must not be interpreted as in any way guaranteeing or suggesting the contemplated loan, the Diaz Government has been recognized by and is receiving the moral support of the United States, and therefore that the loan would be viewed with favor. | 424 |
| Feb. 21 (50) | <i>From the Minister in Nicaragua (tel.)</i> Information that, American backers of Mr. Keilhauer having apparently refused his proposition, he now proposes to arrange a personal loan on condition that President Diaz sell him 51 per cent of stock of National Bank of Nicaragua, but that Diaz has refused. Hope of President Diaz to arrange an immediate temporary loan and later larger ones with New York managers of bank. | 425 |
| Feb. 23 (45) | <i>To the Minister in Nicaragua (tel.)</i> Opinion that present is not opportune time to sell bank or railway; instructions to maintain impartial attitude as between interested parties and to cable figures of Nicaraguan income and expenditure since January 1 and probable figures for next 2 or 3 months, with estimate of minimum credit needs. | 426 |
| Feb. 23 (54) | <i>From the Minister in Nicaragua (tel.)</i> Report that only Rosenthal group is now interested, and that President Diaz understands bank and railroad should not be sold but may be pledged as security provided Department concurs. Figures of income and expenditure, and estimate that \$400,000 to \$500,000 is necessary for urgent obligations and credit needs. | 427 |

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| 1927 Undated | <i>Memorandum by the Economic Adviser of a Conversation Between Himself, the Chief of the Division of Latin American Affairs, and Mr. Tillinghast of the Guaranty Trust Company of New York, February 28, 1927</i> Opinion of Mr. Tillinghast that, as a last resort, inflation of not more than one million cordobas could be effected without serious consequences. Opinion of Messrs. Morgan and Young that inflation would probably result in serious loss of confidence in Nicaragua and a rush to convert local currency into foreign exchange. | 427 |
| Mar. 3 (66) | <i>From the Minister in Nicaragua (tel.)</i> Report that Government, desperately in need of funds, will offer bankers as security for loan all stock in railroad and bank and all revenue produced by recent law; that if Department cannot approve terms, President sees no alternative to emergency emission of cordobas. | 428 |
| Mar. 9 (73) | <i>From the Minister in Nicaragua (tel.)</i> Concurrence in President Diaz's request for approval of million-dollar loan now being proposed by New York bankers; President Diaz's acceptance of bankers' recommendation for a commission to control all expenditures, consisting of President of Nicaragua, Minister of Finance, manager of National Bank of Nicaragua, and American Resident High Commissioner. | 429 |
| Mar. 11 (513-27 For. Dept.) | <i>From the Guaranty Trust Company of New York and J. & W. Seligman & Co. to the Chief of the Division of Latin American Affairs</i> Memorandum covering terms and conditions of proposed million-dollar loan to Nicaragua (text printed). | 429 |
| Mar. 12 | <i>To the Guaranty Trust Company of New York</i> Nonobjection to proposed loan. | 432 |
| Mar. 15 (513-27 For. Dept.) | <i>From the Guaranty Trust Company of New York</i> Intention of making loan under the terms and conditions indicated in memorandum of March 11. | 432 |
| Mar. 25 (82) | <i>From the Minister in Nicaragua (tel.)</i> Signature by President Diaz and ratification by Nicaraguan Congress of loan contract. | 433 |
| AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA ESTABLISHING "GUARDIA NACIONAL DE NICARAGUA," SIGNED DECEMBER 22, 1927 | | HE |
| 1927 May 8 (128) | <i>From the Minister in Nicaragua (tel.)</i> Request by President Diaz for designation of an American officer to instruct and command Nicaraguan constabulary and to name additional American and Nicaraguan officers considered necessary to form larger nonpartisan constabulary. | 433 |

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| May 11 (87) | <i>To the Minister in Nicaragua (tel.)</i> Approval by President Coolidge of President Diaz's request. (Footnote: Appointment of Col. Robert Rhea, May 12, as Chief of the Constabulary, and commission of Col. Elias R. Beadle, August 20, as general in command of <i>Guardia Nacional</i> .) | 434 |
| Dec. 29 (576) | <i>From the Chargé in Nicaragua</i> Agreement between United States and Nicaragua establishing <i>Guardia Nacional</i> , signed December 22 (text printed). | 434 |

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA

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| 1927 | | |
| June 30 (1611) | <i>From the Minister in Nicaragua (tel.)</i> Reported seizure by Sandino of San Albino mine in Nueva Segovia; information that American owner has appealed for protection and that General Feland is preparing an expedition, that sympathizers are proceeding to join Sandino, and that foreigners are criticizing American policy of landing marines to protect American life and property and then failing to give protection. | 439 |
| July 17 (170) | <i>From the Minister in Nicaragua (tel.)</i> Report that Sandino, with far superior numbers, attacked American marines and Nicaraguan national guard at Ocotal, July 16, but suffered defeat after 16 hours' fighting and arrival of U. S. airplanes; doubt that Sandino will offer much further serious resistance. | 440 |
| July 18 (112) | <i>To the Minister in Nicaragua (tel.)</i> Urgent request for details of Ocotal attack. | 440 |
| July 20 (175) | <i>From the Minister in Nicaragua (tel.)</i> Details of Ocotal attack; observation that General Feland in preceding weeks had given Sandino every opportunity to surrender or leave the country and had ordered troops to fire on the enemy only in case of attack; possibility that in spite of disaster, Sandino may continue his outlawry. | 441 |
| July 27 (117) | <i>To the Minister in Nicaragua (tel.)</i> Request for immediate, full reports from Minister and General Feland as to actual conditions and how much resistance may be expected from Sandino or other bandits. | 442 |
| July 27 (180) | <i>From the Minister in Nicaragua (tel.)</i> Report that on July 26, Major Floyd, leading marine-constabulary expedition to San Albino mine, had skirmish with Sandino men at San Fernando, and that party will proceed on July 28 to Jicaro, where fight is expected about the 29th. | 443 |

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| July 31 (183) | <i>From the Minister in Nicaragua (tel.)</i> Suggestion that Sandino's unexpected strength is due partly to aid from Hondurans and Liberals from Managua region; occupation by Floyd party of Jicaro, found to be deserted, and plans to proceed to San Albino. | 443 |
| Aug. 1 (187) | <i>From the Minister in Nicaragua (tel.)</i> Information that Floyd party occupied San Albino without resistance, that natives in Ocotal region appear to be returning to homes, that Sandino is now headed down Coco River with few men; report from Somoto that Salgado, having learned Sandino is finished, is disbanding his men. | 444 |
| Aug. 16 (201) | <i>From the Minister in Nicaragua (tel.)</i> Distribution by airplane in Ocotal region of circulars offering amnesty from Nicaraguan Government to Sandino followers in recent activities; arrangements for Moncada to visit Somoto to endeavor to induce Salgado and followers to lay aside their arms. | 445 |
| Aug. 22 (207) | <i>From the Minister in Nicaragua (tel.)</i> Preparations by General Feland to return to the United States on August 24, when Colonel Gulick will assume command of marines in Nicaragua. | 445 |
| Sept. 2 (223) | <i>From the Minister in Nicaragua (tel.)</i> Renewal by Sandino or followers of activities near Telpaneca, and report that they have been joined by some of Salgado's men; dispatch of marines and constabulary, and likelihood of a clash. | 446 |
| Sept. 3 (225) | <i>From the Minister in Nicaragua (tel.)</i> Information that Moncada did not even confer with Salgado but took advantage of visit to strengthen himself politically, that various attempts to induce Salgado to lay down arms have failed, and that he has now been given 48 hours in which to do so, after which it is believed an expedition may be sent against him. | 446 |
| Sept. 5 (226) | <i>From the Minister in Nicaragua (tel.)</i> Report of recent engagements between marine-constabulary patrols and Sandino and Salgado followers; advice that this is beginning of active campaign against bandits, and that reward for capture of Sandino may soon be offered. | 447 |
| Sept. 11 (237) | <i>From the Minister in Nicaragua (tel.)</i> Expulsion from Nicaragua of Telles, one of Moncada's generals, for implication in Ocotal attack. | 447 |
| Sept. 19 (249) | <i>From the Chargé in Nicaragua (tel.)</i> Attack by Salgado followers upon marine and guardia garrison at Telpaneca; dispatch of relief column in anticipation of another attack. | 447 |

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ACTIVITIES IN NICARAGUA—Continued

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| 1927 Oct. 4 (259) | <i>From the Chargé in Nicaragua (tel.)</i> To Legation at Tegucigalpa: Operations by Conservative bandits in western Nueva Segovia from Honduran base; suggestion to Nicaraguan Government that it ask Honduran Government to drive bandits out of Honduran territory; suggestion that American Minister in Honduras make representations. | 448 |
| Oct. 18 (284) | <i>From the Chargé in Nicaragua (tel.)</i> Continuance of unsatisfactory situation in Nueva Segovia and increasing prestige of Sandino; advice that marines have not taken very active measures because of seasonal transportation difficulties, lack of adequate forces, and reasons of policy; understanding that more energetic steps are contemplated. | 448 |
| Nov. 14 (32) | <i>To the Minister in Honduras (tel.)</i> Report by Commander of Special Service Squadron that bandit group led by Honduran operates from farm in Santa Rita, Honduras, owned by Felix Pedro Pinell, said to be <i>jefe politico</i> of Choluteca; instructions to convey this information to President Paz. | 449 |
| Nov. 15 (68) | <i>From the Minister in Honduras (tel.)</i> Information that President has already ordered investigation of reports that property had been destroyed and Hondurans killed at Santa Rita and San Luis in Honduras by American marines and constabulary, accompanied by Liberal civilians from Nicaragua. (Repeated to Managua.) | 449 |
| Nov. 17 (336) | <i>From the Chargé in Nicaragua (tel.)</i> To Legation at Tegucigalpa: Belief of Colonel Gulick that <i>jefe politico</i> of Choluteca is actively aiding Conservative bandits; inquiry as to possibility of independent investigation in Choluteca region to ascertain the facts; information that marines and <i>guardia</i> have not knowingly crossed Honduran frontier even in active pursuit of bandits. | 450 |
| Nov. 24 (346) | <i>From the Chargé in Nicaragua (tel.)</i> Discovery by airplanes of Sandino's stronghold at Chipote, making possible decisive attack as soon as preparations are made; information that 600 Hondurans have joined Sandino in last few months. | 450 |
| Dec. 26 (388) | <i>From the Chargé in Nicaragua (tel.)</i> Information that worst elements among northern bandits are Hondurans and that military operations are difficult because groups have headquarters in Honduras and receive support from officials there; advice that Sandino also is receiving Honduran aid; suggestion that Honduran Government be induced to exercise effective vigilance on frontier and to remove officials sympathetic to bandits; inquiry whether military attaché might not visit Honduras and conduct discreet investigation; rumor that Chamorro, Nicaraguan general, is aiding Sandino through Honduran Minister of War. | 451 |

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ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT
ACTIVITIES IN NICARAGUA—Continued

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| 1927 | | |
| Dec. 28 (41) | <i>To the Minister in Honduras (tel.)</i> Transmittal of text of telegram No. 388 of December 26 from Chargé in Nicaragua; War Department instructions to military attaché to endeavor to make investigation; instructions to make informal but emphatic representations to President Paz. (Footnote: Information repeated to Legation in Nicaragua as telegram No. 238.) | 451 |
| Dec. 30 (84) | <i>From the Minister in Honduras (tel.)</i> Assurances by President Paz, despite conviction that reports against Minister of War and Pinell are false, that as evidence of good faith he will transfer latter to another post, that no Honduran official has aided Sandino or followers, that order will be given for more effective frontier vigilance, and that no objection is offered to investigation by military attaché. (Repeated to Managua.) | 452 |
| Undated [Rec'd Dec. 31] (391) | <i>From the Chargé in Nicaragua (tel.)</i> To Legation at Tegucigalpa, December 31: Observation that bandits whom Pinell has been assisting are Conservatives who have been as troublesome as Sandino, and that evidence against Pinell is strong. | 452 |
| Dec. 31 (44) | <i>To the Minister in Honduras (tel.)</i> Concern over situation in Nicaragua; information that evidence tends to prove that bandits in Nueva Segovia are receiving material assistance from Honduras; instructions that Department expects Minister to impress upon President Paz necessity for preventing this situation; instructions to advise measures taken as result of representations. | 453 |

SALE OF MUNITIONS BY THE UNITED STATES TO THE GOVERNMENT OF NICARAGUA

| | | |
|---------|--|-----|
| 1927 | | |
| Jan. 3 | <i>Memorandum by the Acting Chief of the Division of Latin American Affairs</i> Telephonic inquiry by National Bank of Nicaragua, in view of request from President Diaz to act as agent for Nicaraguan Government for purchase of rifles, machine guns, and ammunition, whether Department of State will issue export licenses therefor; information that note has been received from Nicaraguan Legation requesting issuance of export licenses for munitions, some of which are believed to be identical with those to be purchased by bank. | 453 |
| Undated | <i>Memorandum by the Acting Chief of the Division of Latin American Affairs of a Telephone Conversation With the Vice President of the National Bank of Nicaragua, January 4, 1927</i> Answers to bank and Nicaraguan Legation that licenses will be issued. | 454 |
| Feb. 7 | <i>From the Nicaraguan Minister</i> Desire of Nicaraguan Government to purchase certain war materials from U. S. Government on terms and conditions outlined. | 454 |

NICARAGUA

SALE OF MUNITIONS BY THE UNITED STATES TO THE GOVERNMENT OF NICARAGUA—Continued

| Date and number | Subject | Page |
|------------------|--|------|
| 1927 | | |
| Feb. 18 | <i>To the Nicaraguan Minister</i> Availability of the desired arms and munitions for sale to Nicaraguan Government at prices indicated and on certain terms and conditions. | 456 |
| Feb. 19 | <i>From the Nicaraguan Minister</i> Acceptance of terms and conditions. (Footnote: Signature of contract, February 25.) | 457 |
| Apr. 27 (77) | <i>To the Minister in Nicaragua (tel.)</i> Desire of Nicaraguan Government to purchase additional rifles and ammunition; instructions to consult with Mr. Stimson, personal representative of President Coolidge, and Admiral Latimer, and to report views on necessity or advisability of sale at this time. | 458 |
| Apr. 28 (113) | <i>From the Minister in Nicaragua (tel.)</i> Inadvisability of sale; concurrence of Mr. Stimson and Admiral Latimer. | 458 |

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE NICARAGUAN CLAIMS COMMISSION

| | | |
|------------------|---|-----|
| 1926 | | |
| Nov. 25 (302) | <i>From the Chargé in Nicaragua</i> Letter to President Diaz enclosing memorandum of conversations concerning creation of claims commission to adjudicate claims arising out of 1926 revolution (texts printed). | 458 |
| Dec. 9 (310) | <i>From the Chargé in Nicaragua</i> Act of Nicaraguan Congress, December 1 (text printed), establishing claims commission to adjudicate claims arising from October 25, 1925, to date of reestablishment of peace, which date shall be publicly and officially proclaimed by the Executive. | 461 |
| 1927 | | |
| May 14 (228) | <i>To the Minister in Nicaragua</i> Reference to previous instruction to suggest to Nicaraguan Government that law of December 1, 1926, be amended so that proposed commission will have jurisdiction over personal injury claims; instructions to follow matter with a view to obtaining desired amendment. | 463 |
| June 15 (429) | <i>From the Minister in Nicaragua</i> Foreign Office assurances that amendment will be proposed at next session of Congress. | 463 |
| June 24 (157) | <i>From the Minister in Nicaragua (tel.)</i> Presidential decree for elections to be held September 4 in departments where 1926 elections were not held because of revolution; creation of claims commission, commencement of preliminary sessions, and plan for commencement of regular sessions on July 1. | 464 |

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE
NICARAGUAN CLAIMS COMMISSION—Continued

| Date and number | Subject | Page |
|------------------|---|------|
| 1927 | | |
| June 28 (103) | <i>To the Minister in Nicaragua (tel.)</i> Observation that plan for claims commission was that Nicaraguan Congress, when constituted and called into session, should authorize creation of war claims commission to consist of American chairman, a Liberal and a Conservative member, and that commission now sitting should prepare claims and turn them over to new commission for settlement; instructions to advise if any change has been made in plan. | 465 |
| June 30 (163) | <i>From the Minister in Nicaragua (tel.)</i> Advice that plan is being followed, that upon completion of preparation of claims about December 1, present commission made permanent, or its successor, will undertake special proceedings; plan to amend law to give American member veto power in appointment of Liberal member; Presidential appointment of Arguello Cervantes as Liberal member at suggestion of Liberals at Leon and recommendation of Minister. | 465 |
| Oct. 25 (291) | <i>From the Chargé in Nicaragua (tel.)</i> Improbability that Cervantes will be accepted by Liberals; opinion that first step should be to suggest that President Diaz appoint a man nominated by official representatives of Liberal Party. | 466 |
| Oct. 28 (168) | <i>To the Chargé in Nicaragua (tel.)</i> Report of discussions with Moncada, who objects to Cervantes and maintains that American member should have veto power and deciding vote on claims; desire for views on veto power in light of Moncada's position; information to Moncada that veto matter will be held in abeyance, but that Chargé will be authorized to suggest to President Diaz that Liberal member named by Liberal Party be substituted for Cervantes. | 466 |
| Nov. 2 (313) | <i>From the Chargé in Nicaragua (tel.)</i> Information that Dr. Enoc Aguado will be appointed Liberal member; opinion that a measure giving American member deciding vote would be politically inexpedient and unnecessary in view of high character of Nicaraguan members. | 467 |
| Nov. 8 (323) | <i>From the Chargé in Nicaragua (tel.)</i> Advice that Aguado took office on November 7. | 468 |
| Nov. 10 (186) | <i>To the Chargé in Nicaragua (tel.)</i> Department's agreement that, in view of appointment of Aguado, it is not necessary for American member to have deciding vote. | 468 |
| Nov. 12 (330) | <i>From the Chargé in Nicaragua (tel.)</i> Issuance of Presidential decree, November 10, calling on creditors to file with commission all claims against Nicaraguan Government up to June 30, 1927. | 468 |
| Nov. 17 (197) | <i>To the Chargé in Nicaragua (tel.)</i> Instructions to inquire whether decree is intended to embrace only claims accruing from October 25, 1925, to June 30, 1927. | 468 |
| Nov. 18 (337) | <i>From the Chargé in Nicaragua (tel.)</i> Information that decree embraces only claims accruing from October 25, 1925, to June 30, 1927, and that provision might be made for any other claims in law extending power of commission, which may be brought up at next session of Congress. | 468 |

NICARAGUA

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE
NICARAGUAN CLAIMS COMMISSION—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Nov. 30 (210) | <i>To the Chargé in Nicaragua (tel.)</i> Instructions to ascertain whether commission will pass on claim of Charles Butters for damages to San Albino mine by bandits subsequent to June 30. | 469 |
| Dec. 1 (355) | <i>From the Chargé in Nicaragua (tel.)</i> Information that commission will be able to pass on claims for losses suffered after June 30 only after passage of new legislation which will be recommended to Congress. | 469 |

PROPOSAL BY PRESIDENT DIAZ FOR A TREATY OF ALLIANCE BETWEEN THE UNITED
STATES AND NICARAGUA

| | | |
|------------------|--|-----|
| 1927 | | |
| Feb. 23 (359) | <i>From the Minister in Nicaragua</i> Notes from Foreign Minister, February 19 and 23 (texts printed), proposing treaty of alliance, defensive and offensive, to be accompanied by conventions providing financial, security, and sanitary plans. | 469 |
| Feb. 25 (55) | <i>From the Minister in Nicaragua (tel.)</i> Approval by Congress of treaty proposals. | 475 |
| Feb. 26 (56) | <i>From the Minister in Nicaragua (tel.)</i> Congressional vote of confidence to President Diaz on proposed treaty policy; public enthusiasm for treaty. | 477 |
| Feb. 26 (47) | <i>To the Minister in Nicaragua (tel.)</i> Instructions to exercise precaution not to encourage belief that treaty of nature proposed will be acceptable to the U. S. Government. | 477 |

NORWAY

STATEMENT BY NORWAY OF ITS PARAMOUNT INTEREST IN THE ISLAND OF JAN
MAYEN IN THE ARCTIC OCEAN

| | | |
|------------------|---|-----|
| 1927 | | |
| Feb. 16 (331) | <i>To the Minister in Norway</i> Information that Polarfront Company, American corporation headed by Hagbard Ekerold, established fox farms on Jan Mayen on land claimed by Mr. Ekerold in his own name in 1922, outside of land previously claimed by him on behalf of Norwegian Meteorological Institute, and that Norwegians connected with radio station on Jan Mayen have ordered company representatives not to fly American flag and have made other representations; instructions to inform Foreign Office of company's claim. | 479 |
| May 3 (987) | <i>From the Minister in Norway</i> Foreign Office note, April 30, denying that Ekerold occupied land in his own name in 1922 and stating that Polarfront Company's farms lie partly on land belonging to Institute (text printed). | 480 |

NORWAY

STATEMENT BY NORWAY OF ITS PARAMOUNT INTEREST IN THE ISLAND OF JAN MAYEN IN THE ARCTIC OCEAN—Continued

| Date and number | Subject | Page |
|-------------------|--|------|
| 1927 | | |
| June 18 (1015) | <i>From the Minister in Norway</i> Passage by Storting of bill appropriating 10,000 kroner to Mr. Christopher E. Ruud as settlement in connection with his occupation of Jan Mayen in 1917, on condition that all rights be assigned to Norwegian Government. | 481 |
| Aug. 26 (1043) | <i>From the Minister in Norway</i> Foreign Office note, August 23, reiterating opinion that Polar-front Company has no valid claim (text printed). | 482 |

PANAMA

PROPOSALS BY PANAMA TO MODIFY THE UNPERFECTED TREATY BETWEEN THE UNITED STATES AND PANAMA, SIGNED JULY 28, 1926

| | | |
|----------------|---|-----|
| 1927 | | |
| Jan. 6 | <i>From the Panaman Legation</i> Proposal that article II of treaty signed July 28, 1926, be clarified by agreement that U. S. Government will deposit \$1,250,000 to order of Panaman Government, the latter to undertake construction of roads of width and type it considers most suitable. | 484 |
| Jan. 19 (3) | <i>To the Minister in Panama (tel.)</i> Reluctance to conclude agreement proposed by Panama; willingness, however, to make concession if War Department offers no objection, in order not to jeopardize Panaman ratification of treaty; instructions to confer with Governor Walker and report views as to whether Assembly would fail to ratify treaty if United States should decline to make concession. | 484 |
| Jan. 21 (7) | <i>From the Minister in Panama (tel.)</i> Doubt that declination of proposal would materially influence Assembly's decision because opposition to treaty is based largely on other reasons; concurrence of Governor Walker in opinion but nonobjection to changing road specifications or permitting construction by Panama. | 486 |
| Jan. 27 (9) | <i>From the Minister in Panama (tel.)</i> Decision by Assembly, January 26, to suspend consideration of treaty until President should have opportunity to negotiate for changes which would satisfy national aspirations. | 486 |
| Jan. 28 | <i>Memorandum by the Acting Chief of the Division of Latin American Affairs</i> Conversation in which Panaman Chargé was advised that Department agreed in principle to Panaman proposal for clarification of article II; Chargé's doubt that proposed agreement would be sufficient to obtain treaty ratification; decision to delay exchange of notes concerning article II until all views of Panaman Government are known. | 487 |
| Mar. 1 | <i>Memorandum by the Chief of the Division of Latin American Affairs</i> Conversation in which Panaman Minister discussed objections to treaty and, in response to inquiry concerning what Panaman Government wished to do, expressed desire to discuss matter further. | 488 |

PANAMA

STATEMENT BY THE DEPARTMENT OF STATE THAT THE UNITED STATES DOES NOT INTEND TO SUPERVISE ELECTIONS IN PANAMA

| Date and number | Subject | Page |
|--------------------|--|------|
| 1927 | | |
| Dec. 14 | <i>From the Representatives of the National Coalition Porrista Party</i> Appeal for U. S. assurance and guarantee of free and fair elections in Panama in 1928. (Footnote: Handed to Secretary of State on December 15 by ex-President Belisario Porras.) | 490 |
| Dec. 15 (373-D) | <i>From the Panaman Minister</i> Inquiry respecting policy as to question of intervention by United States in internal affairs of Panama. | 493 |
| Dec. 23 | <i>To the Panaman Minister</i> Information that U. S. Government will carry out treaty obligations guaranteeing to maintain independence of Panama but does not intend to supervise elections; request that copy be transmitted to Dr. Porras. | 494 |
| Dec. 28 | <i>From Doctor Belisario Porras</i> Arguments for U. S. supervision of elections; request that Secretary reconsider memorandum presented December 15 to the end that steps may be taken by U. S. Government to ensure holding of free and fair elections in Panama in 1928. | 494 |

RESERVATION BY THE UNITED STATES OF RIGHTS REGARDING RADIO AND RAILROAD CONSTRUCTION IN PANAMA

| | | |
|-------------------|--|-----|
| 1927 | | |
| Jan. 25 (1301) | <i>From the Minister in Panama</i> Signature of contract between Panaman Government and Tonosí Fruit Company, United Fruit subsidiary, for banana development at Tonosí which will include wharf, railway, and irrigation works construction. | 499 |
| Feb. 12 (16) | <i>From the Minister in Panama (tel.)</i> Opinion that article 12 of Tonosí contract now before Assembly violates existing arrangement between United States and Panama regarding wireless control; belief that protest should be lodged even if Department should be disposed to permit wireless installation on new plantation; request for instructions. | 500 |
| Feb. 14 (7) | <i>To the Minister in Panama (tel.)</i> Instructions to make immediate protest. | 500 |
| Feb. 17 (21) | <i>From the Minister in Panama (tel.)</i> Approval of contract by Assembly, February 16; presentation to Foreign Minister of note regarding wireless, and recognition by him and United Fruit Company of existing U. S.-Panaman arrangement; nonobjection by Panama Canal Governor to Tonosí railroad construction but desire that Panaman Government recognize fact that Panama Railroad Company concession gives company exclusive right to construct railroads on Isthmus; recommendation that note be presented reserving U. S. position; request for instructions. | 501 |
| Feb. 19 (8) | <i>To the Minister in Panama (tel.)</i> Instructions to present note as suggested. | 501 |

PANAMA

RESERVATION BY THE UNITED STATES OF RIGHTS REGARDING RADIO AND RAILROAD
CONSTRUCTION IN PANAMA—Continued

| Date and number | Subject | Page |
|--------------------|--|------|
| 1927 | | |
| Feb. 21 (1333) | <i>From the Minister in Panama</i> Note to Foreign Office reserving U. S. position regarding Tonosí railroad concession (text printed). | |
| May 14 (1413) | <i>From the Minister in Panama</i> Foreign Office note, April 27 (text printed), asserting that concession cannot be interpreted as conferring exclusive right to construct railroads in all directions but is limited to railroads between Caribbean Sea and Pacific Ocean. Information that the two Governments have long disagreed on interpretation and that Legation has prepared memorandum on monopoly rights of the United States and Panama Railroad Company (text printed); request for instructions; suggestion that Foreign Office be advised that U. S. views have not changed and that reference be made to Legation's note of March 3, 1921, which remains unanswered by Panaman Government. | 502 |
| June 3 (42) | <i>To the Minister in Panama (tel.)</i> Instructions to inform Foreign Office that U. S. position has not in any way changed since presentation of note of March 3, 1921. | 516 |
| Aug. 6 (78) | <i>From the Minister in Panama (tel.)</i> Information that Chiriquí Land Company, United Fruit subsidiary, has been authorized by contract with Panaman Government approved July 19, to construct railroads and to establish radio, telegraph, and telephone stations in Chiriquí Province; recommendation, although neither Legation nor Canal Governor perceive objection to railroad construction, that notes similar to those presented in Tonosí case be pre- sented; request for instructions; report that concession has been awarded for construction of railroad having terminus on Lake Gatun. | 516 |
| Aug. 10 (52) | <i>To the Minister in Panama (tel.)</i> Instructions to ask President when reply to note on Tonosí wireless concession may be expected, and, upon receipt of as- surances that Panaman Government shares U. S. Government's views as to establishment of radio stations and railroads, to inform President of nonobjection to Chiriquí contract, stating that position remains same as expressed in former communica- tions. | 517 |
| Aug. 12 (79) | <i>From the Minister in Panama (tel.)</i> Advice that, as Panaman Government has already expressed disagreement with Department's views on railroad construc- tion, Minister is withholding action on instructions of telegram No. 52 of August 10 regarding Chiriquí matter pending further instructions. | 517 |
| Aug. 16 (55) | <i>To the Minister in Panama (tel.)</i> Doubt that useful purpose would be served by presenting another note refuting Panaman Government's position con- cerning railroad construction; authorization, however, to in- form President again that failure to protest Chiriquí contract does not alter U. S. position with regard to question of rail- roads and radio. | 518 |

PANAMA

PROTEST BY PANAMA AGAINST DIRECT NEGOTIATIONS BETWEEN CUBA AND THE
AUTHORITIES OF THE PANAMA CANAL IN AN EXTRADITION CASE

| Date and number | Subject | Page |
|--------------------|--|------|
| 1927 | | |
| May 3 (D-145) | <i>From the Panaman Minister</i> Information that formal protest has been lodged with Cuban Government against direct negotiations with Panama Canal authorities in extradition case, in disregard of Panaman sovereignty; protest to U. S. Government against manner in which extradition was effected. | 518 |
| May 13 | <i>To the Panaman Minister</i> Adherence to views expressed to Panaman Government in notes of June 12, July 7, and October 13, 1923, concerning extradition proceedings taken upon request of Chilean Government [i. e., that under Canal Act of 1912 U. S. Government has right to surrender fugitives in Canal Zone direct to foreign governments]. | 519 |

PARAGUAY

CONCESSION BY PARAGUAY TO THE ASUNCIÓN PORT CONCESSION CORPORATION

| | | |
|------------------|---|-----|
| 1927 | | |
| Jan. 28 (234) | <i>From the Minister in Paraguay</i> Support of President to Asunción Port Concession Corporation and assurance that matter will be presented for prompt action by next Congress. | 521 |
| Oct. 21 (421) | <i>From the Minister in Paraguay</i> Signature by President, October 20, of law passed at last session of Congress granting concession to Corporation; information that preparations are being made for an early construction. | 522 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA

| | | |
|-------------------------------|---|-----|
| 1922 | | |
| Feb. 11 | <i>Memorandum by the Assistant Secretary of State</i> Conversation between Secretary of State and British Ambassador concerning financial situation in Persia, Persia's need for money and good financial advice, and possibility of an American as financial adviser to Persia. | 523 |
| Undated [Rec'd Apr. 20] | <i>From the British Embassy</i> Foreign Office memorandum, March 1, communicating views on Persian situation and assuring assistance and cooperation if U. S. Government decides to undertake task of improving internal administration and introducing sound financial methods (extract printed). | 523 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1922 May 1 | <i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> | 525 |
| | Conversation in which Persian Minister asked whether decision regarding advisers had been reached and was told that Department would probably not officially designate an adviser but would recommend persons from whom Persian Government might make selection, and that Department could not assume responsibility of insisting on a particular candidate; Persian Government's desire for agricultural and mining experts in addition to financial experts and request for assistance in selecting them. | |
| May 9 (33) | <i>To the Minister in Persia (tel.)</i> Instructions to inform Foreign Minister that careful consideration is being given to request for assistance in securing persons to act as advisers; advice that Department does not believe that U. S. Government should assume responsibility for actual appointment of financial adviser. | 526 |
| June 22 | <i>To the Persian Minister</i> Suggestion that Persian Government may desire to consider Dr. A. C. Millspaugh, Economic Adviser of the Department, for appointment as Chief Financial Adviser; advice that if Dr. Millspaugh should be selected, all connection between him and Department will cease and that in suggesting an American citizen Government assumes no responsibility for any action which financial adviser may take as an official employed by Persian Government. | |
| June 26 | <i>Memorandum by the Chief of the Division of Near Eastern Affairs</i> Conversation, June 23, at which Secretary's note of June 22 was handed to Persian Minister; conversation, June 24, with Mr. Craigie of British Embassy, in which Department's attitude toward advisers for Persia was outlined. | 527 |
| Aug. 22 | <i>To the British Ambassador</i> Appreciation for assurances expressed in memorandum left at Department on April 20; information that appointment of Dr. Millspaugh as Administrator General of the Finances of Persia has been approved by Mejlis and that mission will soon leave for Persia; advice as to limit of U. S. Government's action and responsibility. | 529 |
| Aug. 26 | <i>To the Persian Minister</i> Communication of list of Americans recommended by Dr. Millspaugh for positions in financial administration; observation that Department does not assume responsibility for the persons suggested. | |
| Nov. 14 (54) | <i>To the Minister in Persia (tel.)</i> Information that Millspaugh mission is en route, that Department cannot assume responsibility for activities while employed by Persian Government but takes sympathetic interest in their work; instructions to extend every protection and assistance to which they may be entitled as American citizens. | 530 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA—Continued

| Date and number | Subject | Page |
|---------------------------------------|--|------|
| 1924 Undated [Rec'd July 26] | <i>From the Administrator General of the Finances of Persia (tel.)</i> Information that mission have asked settlement in view of violation of contracts. | 531 |
| July 28 (67) | <i>From the Minister in Persia (tel.)</i> Information from Dr. Millspaugh, July 24, that on July 17 he sent protest to Persian Government, alleging violations of contract. | 531 |
| July 28 (68) | <i>From the Minister in Persia (tel.)</i> Transmission to Legation by Dr. Millspaugh under date of July 26, of copy of a communication of July 24 to Persian Government which requested arrangement for settlement with mission without delay. | 532 |
| July 30 (48) | <i>To the Minister in Persia (tel.)</i> Regret that circumstances have disposed Dr. Millspaugh to demand termination of contract; observation that if stipulations of contracts are respected, no ground exists for diplomatic interference; instructions, however, if Persian Government has not given pledges for future or is about to adopt course which may cause resignation of American officials, to make informal representations and to cable report. | 532 |
| July 31 (10) | <i>From the Secretary of Legation and Acting Consul at Teheran (tel.)</i> Conference between Prime Minister and Dr. Millspaugh, at which latter, despite Prime Minister's promises, insisted upon settlement of contracts, believing that if mission should remain, present contracts must be canceled and new ones drawn with radical changes, including practically dictatorial powers in matters of budget and guarantee of army support. | 533 |
| Aug. 6 (84) | <i>From the Minister in Persia (tel.)</i> Information that Prime Minister has urged Dr. Millspaugh not to leave but that latter believes it preferable to terminate present contract, after which he could stipulate for undivided power over finances if he is desired to stay on. | 533 |
| Sept. 7 (637) | <i>From the Chargé in Persia</i> Conversations with Dr. Millspaugh on July 31 and September 5, and with Persian Minister of Finance, September 6, during which entire matter, advisers' demands, and Persian Government's attitude were fully discussed. | 534 |
| Sept. 18 (124) | <i>From the Chargé in Persia (tel.)</i> Efforts to persuade Dr. Millspaugh to give way in demands concerning termination of contracts and diminution of funds to Ministry of War, and suggestion that he attempt to prevail on Prime Minister to exert influence in Mejliss for passage of delayed fiscal measures; indication that Prime Minister will cooperate. | 537 |
| Oct. 6 (669) | <i>From the Chargé in Persia</i> Information that agreement has been reached between Dr. Millspaugh and Prime Minister whereby budget reductions will be accomplished, Army will give unlimited assistance in collection of taxes, administrative changes will be made in Ministry of Post and Telegraphs, questions of mission as to contract violations will be reviewed by new Persian commission, and advisers will not insist on cancelation and settlement of contracts before consenting to consider continuation of their services. | 538 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA—Continued

| Date and number | Subject | Page |
|--------------------------|---|------|
| 1925 Feb. 1 (7) | <i>From the Chargé in Persia (tel.)</i> Prime Minister's assurance to Dr. Millspaugh that Government has no thought of allowing agreements with American mission to lapse at expiration on September 30, and expression of personal regard; information that Dr. Millspaugh plans trip to America to employ other assistants. | 540 |
| 1926 Dec. 18 (52) | <i>To the Minister in Persia (tel.)</i> Persian Minister's request that Department try to influence Dr. Millspaugh to abandon efforts to regulate finances of War Ministry and to hinder railway projects in Persia, and Department's assurance that American Minister would be informed of request with a view to using unofficial influence to allay misunderstandings; instructions to confer with Dr. Millspaugh, report results, and own views. | 541 |
| Dec. 27 (70) | <i>From the Minister in Persia (tel.)</i> Information that Persian Minister's representations are probably result of audience with Shah prior to departure for America, and before present situation arose; that relations between Dr. Millspaugh and Minister of War are better than ever before; and that in general position of mission appears to be better. | 542 |
| Dec. 30 (231) | <i>From the Minister in Persia</i> Discussion with Prime Minister of rumored intention of Persian Government to consider revision of certain articles of Millspaugh contract when its renewal should be officially decided upon; Prime Minister's assurance of opposition to any diminution of powers now vested in Administrator General. | 542 |
| 1927 Jan. 10 (528) | <i>To the Minister in Persia</i> Remarks of the Persian Minister upon presentation of letters of credence, December 7, 1926, and reply of President Coolidge (texts printed); observation that Minister may care to make informal reference to President's remarks on the successful efforts of the American mission. | 544 |
| Jan. 19 (530) | <i>To the Minister in Persia</i> Belief that knowledge in Teheran of Department's interest and satisfaction in activities of Millspaugh mission, as contained in statement by Secretary on January 1, may prove helpful in rendering informal assistance to Dr. Millspaugh in difficulties which may arise. | 546 |
| Feb. 4 (532) | <i>To the Minister in Persia</i> Instructions to lend unofficial good offices to endeavor to dissuade Persian Government from taking any action with regard to Administrator General that might defeat ends for which mission was engaged. | 546 |
| Feb. 22 (275) | <i>From the Minister in Persia</i> Observation that question of renewal of contracts due to expire in fall will hinge on decision as to retention of Dr. Millspaugh, who asserts he will not remain if any material curtailment of his authority is made; urgency of renewal question because Dr. Millspaugh and certain other advisers are entitled to leave of absence during summer which will extend to expiration date of contracts. | 547 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA—Continued

| Date and number | Subject | Page |
|--------------------|--|------|
| 1927 Undated | <i>Memorandum of an Audience Given to the American Minister by Reza Shah Pahlavi, April 14, 1927</i> American Minister's discussion with Shah concerning rumored dissatisfaction with American mission; efforts to explain Dr. Millspaugh's position. | 549 |
| June 25 (43) | <i>From the Minister in Persia (tel.)</i> Information that draft of new contract has been formally submitted by Finance Minister to Dr. Millspaugh, who regards it as inadmissible and plans to submit views to Prime Minister. | 551 |
| June 30 (44) | <i>From the Minister in Persia (tel.)</i> Opinion that crisis over contract is becoming acute; request by Dr. Millspaugh that American Minister call on Shah and Prime Minister after submission of prepared statement; inquiry as to what Department will empower American Minister to say. | 552 |
| June 30 (31) | <i>To the Minister in Persia (tel.)</i> Recommendation that Minister represent that unfavorable impression will be made in America by information that Administrator General has not been accorded friendly participation in drafting of a new contract and that when his departure was already imminent he received proposals which were immediately published and by which his whole past administration seemed to be discredited. | 552 |
| July 1 (47) | <i>From the Minister in Persia (tel.)</i> Declaration by Shah that Finance Minister's activities must not be construed as evidence of Government dissatisfaction with Dr. Millspaugh or design to bring about his withdrawal, although some changes in contract are required by present conditions, and instructions to Premier and Minister of Court to confer with Administrator General in preparation of new contract. | 553 |
| July 22 (49) | <i>From the Minister in Persia (tel.)</i> Failure of conference to bring helpful result; submission of new draft to Dr. Millspaugh through Finance Minister, with information that these are last proposals and must be answered before July 27; Dr. Millspaugh's decision to reject contract and depart for America. | 553 |
| July 30 (50) | <i>From the Minister in Persia (tel.)</i> Refusal of contract by Dr. Millspaugh and plan for departure August 3 or 4; appointment by Mejliss of Prime Minister as Acting Administrator General for unexpired period of Dr. Millspaugh's contract; decision of mission members to remain temporarily, in expectation that Government will either dismiss them or otherwise render itself liable to claims. | 554 |
| Aug. 2 (37) | <i>To the Minister in Persia (tel.)</i> Instructions to say to Persian Government, provided Minister perceives no objection, that American Government, recalling help which it gave unofficially at instance of Persian Government in selection of advisers, has now decided to reserve entire liberty in acting upon future requests which it may receive for assistance in promoting engagement of its nationals as advisers to Persian Government. | 555 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Aug. 4 (51) | <i>From the Minister in Persia (tel.)</i> Departure of Dr. Millspaugh. | 555 |
| Aug. 8 (39) | <i>To the Minister in Persia (tel.)</i> Request for information as to what action, if any, Minister took on basis of Department's telegram No. 37 of August 2. | 555 |
| Aug. 9 (52) | <i>From the Minister in Persia (tel.)</i> Delay in giving effect to Department's telegram No. 37 of August 2, for fear of provoking Government to hostility against mission members still in Persia; intention to delay delivery of note which Minister planned to address to Persian Government following day until Department confirms previous instructions; desire to be informed if Persian Legation presents further requests. | 555 |
| Aug. 9 (39 bis) | <i>To the Minister in Persia (tel.)</i> Nonreceipt of communications from Persian Minister regarding past or future of American advisers; confirmation of instructions, in view of American Minister's decision that time has come to present note; instructions to advise action taken. | 556 |
| Aug. 13 (53) | <i>From the Minister in Persia (tel.)</i> Delivery of note. | 556 |
| Aug. 19 (414) | <i>From the Minister in Persia</i> Note to Acting Foreign Minister, dated August 11 (text printed), on basis of instructions in Department's telegram No. 37 of August 2; lack of information as to exact effect note has had on Persian Government. | 556 |
| Aug. 29 (56) | <i>From the Minister in Persia (tel.)</i> Information that note of August 11 has irritated Foreign Ministry, which will prepare sharp note in reply, and that Acting Foreign Minister has urged American Minister to ask instructions to recall note or to so modify it as to preclude Persian Government's rejoinder; objection to recall, but suggestion that to send a note of explanation might be helpful. | 558 |
| Aug. 29 (44) | <i>To the Minister in Persia (tel.)</i> Opinion that no adequate grounds exist for recall of note; instructions to advise Acting Foreign Minister that note is in no way to be regarded as attempt to interfere with or call in question acts of Persian Government in its disputes with foreign officers in its service, and that note referred only to the future. | 559 |
| Sept. 1 (59) | <i>From the Minister in Persia (tel.)</i> Information that on August 31 Acting Foreign Minister read sharp reply which he has been instructed to sign and deliver, and that upon receipt of <i>aide-memoire</i> of explanation, he requested that American Minister ask instructions to withdraw note; disposition to withdraw note if Persian Government will accept stipulation that U. S. Government may in future renew expressions contained in note; request for instructions. | 560 |

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE
ADMINISTRATION OF THE FINANCES OF PERSIA—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Sept. 1 (47) | <i>To the Minister in Persia (tel.)</i> Sanction of recall, at discretion, of note and <i>aide-mémoire</i> ; instructions, if authorization is exercised, to explain orally that this action is taken because Persian Government has construed note in sense alien to Department's intentions, but not to discuss position U. S. Government may hereafter adopt toward American advisers in Persian service. | 560 |
| Sept. 10 (431) | <i>From the Minister in Persia</i> Note of August 30 to Acting Foreign Minister, incorporating <i>aide-mémoire</i> of explanation (text printed). | 561 |
| Sept. 16 (60) | <i>From the Minister in Persia (tel.)</i> Information that note of August 11 was withdrawn on September 5 and that result appears satisfactory. | 563 |
| Sept. 22 (581) | <i>To the Minister in Persia</i> Statement made to the press by Dr. Millspaugh in Washington, September 17, concerning his work in Persia and circumstances of his withdrawal (text printed). | 563 |

NOTIFICATION BY PERSIA OF THE TERMINATION OF CAPITULATIONS

| | | |
|------------------|--|-----|
| 1927 | | |
| Apr. 27 (19) | <i>From the Minister in Persia (tel.)</i> Statement by Shah, April 26, that he had issued orders to Government to take steps for abolition of capitulations as soon as possible. | 567 |
| Apr. 30 (329) | <i>From the Minister in Persia</i> Meeting of diplomatic representatives of capitulatory powers, April 28, at which situation was informally discussed and American Minister stated he had received no intimation of any impending or drastic action by Persian Government. | 567 |
| May 2 (330) | <i>From the Minister in Persia</i> Information concerning reorganization of Ministry of Justice and Shah's statement of April 26; order issued by Shah to Prime Minister concerning abolition of capitulations (text printed). | 571 |
| May 6 (341) | <i>From the Minister in Persia</i> Prime Minister's statement to Mejliss, May 1, advising that preparations for abolition of capitulations will constitute most important object of Government's program (extract printed); assurance by Prime Minister in conversation with American Minister, May 5, that Government has no intention to take precipitate action but desires to accomplish purpose by friendly and legal means. | 573 |
| May 10 (26) | <i>From the Minister in Persia (tel.)</i> Note from Foreign Minister (text printed) terminating treaty of 1856 between Persia and the United States on May 10, 1928, and expressing desire that during period while treaty remains in force U. S. Government take appropriate action for consummation of new treaty. | 574 |

PERSIA

NOTIFICATION BY PERSIA OF THE TERMINATION OF CAPITULATIONS—Continued

| Date and number | Subject | Page |
|------------------------|---|------|
| 1927 May 12 (18) | <i>To the Minister in Persia (tel.)</i> Instructions to report what action Persian Government has taken concerning treaties with other extraterritorial powers. | 574 |
| May 13 (27) | <i>From the Minister in Persia (tel.)</i> Information that all powers enjoying most-favored-nation rights under treaties which may be abrogated on year's notice have received similar notes; that perpetual treaties with France and Spain will be terminated also on May 10, 1928; that British Legation was advised that foreign subjects in Persia will cease to enjoy consular jurisdiction and other privileges on that date, after which such privileges will be denied those governments claiming them on most-favored-nation principle. Decision of diplomatic body to submit to respective governments identical recommendations regarding acknowledgment to note of May 10. | 575 |
| May 14 (28) | <i>From the Minister in Persia (tel.)</i> Suggested form of acknowledgment to note of May 10 (text printed). | 576 |
| May 16 (19) | <i>To the Minister in Persia (tel.)</i> Draft note for presentation to Persian Government if and when other diplomatic representatives are authorized to present their draft note, stating U. S. Government's readiness to consider questions raised in note of May 10 but desire as a preliminary to have precise information regarding new codes of justice and organization of courts proposed to replace consular jurisdiction (text printed); request for information regarding instructions received by colleagues. | 576 |
| May 17 (348) | <i>From the Minister in Persia</i> Résumé of circumstances probably responsible for Persian action; details of diplomatic body meeting of May 13. | 577 |
| May 18 (30) | <i>From the Minister in Persia (tel.)</i> Information that no instructions have been received by majority of colleagues; intention to send at once acknowledgment outlined in Department's telegram No. 19 of May 16, and request for renewed authorization to do so. | 583 |
| May 18 (21) | <i>To the Minister in Persia (tel.)</i> Authorization to transmit note at once. | 583 |
| May 23 (35) | <i>From the Minister in Persia (tel.)</i> Delivery of note dated May 17 to Persian Government. | 583 |
| June 17 (373) | <i>From the Minister in Persia</i> Information that Belgian and possibly German colleague have acknowledged Persian note of May 10; opinion of colleagues that question of abolition of capitulations has passed into less acute stage and that it is unlikely that definite negotiations will be entered into by foreign governments for time being. | 584 |

PERSIA

NOTIFICATION BY PERSIA OF THE TERMINATION OF CAPITULATIONS—Continued

| Date and number | Subject | Page |
|--------------------------|---|------|
| 1927 June 18 (374) | <i>From the Minister in Persia</i> Conversation with Prime Minister, June 17, concerning action in denouncing capitulatory treaties; American Minister's inquiry whether in view of short time available for reorganization of judiciary and new treaty negotiations, validity period of treaties might be extended beyond May 10, 1928, and favorable intimation by Prime Minister. Opinion that U. S. Government might take lead in meeting situation in spirit of friendliness and possibly in demonstrating willingness to open negotiations for new treaty without committing itself on subject of capitulations. | 586 |
| June 22 (42) | <i>From the Minister in Persia (tel.)</i> Persian reply, June 20, to American note of May 17, inviting attention to fact that denunciation of treaty was accomplished on May 10, that progress of legal and judicial reforms will have no connection with denunciation of old treaties and consummation of new treaties, and expressing hope that Government will take action for new treaty (text printed). Information that German Minister received similar note. | 587 |
| June 24 (28) | <i>To the Minister in Persia (tel.)</i> Instructions to send informal reply to Persian note, stating that U. S. Government is not inclined to dispute Persian Government's privilege to declare intention to terminate treaty of 1856 nor to contend that declaration is subject to conditions of any sort, but that information asked for in Legation's note of May 17 is deemed indispensable. | 588 |
| June 28 (380) | <i>From the Minister in Persia</i> Persian note of June 20 and Legation's reply thereto, June 26 (texts printed), in accordance with Department's telegram No. 28 of June 24; observation that information requested concerning judicial reforms will be difficult to supply. | 588 |
| July 15 (390) | <i>From the Minister in Persia</i> Interview with Shah, July 8, in which American Minister explained attitude toward intended abolition of capitulations, negotiations for new treaty, and request for information as to actual state of judicial system, and Shah assured him that desired information would be collected and furnished. Suggestion that <i>note verbale</i> from Foreign Office which announces transfer of duties of legal representatives in provinces to Governors until May 10, 1928, is intended as indication of intention to terminate capitulatory regime on that date. | 591 |

PERU

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND PERU

| | | |
|--------------------------|--|-----|
| 1927 Aug. 19 (363) | <i>To the Chargé in Peru</i> Instructions to inquire whether Peru is disposed to enter into negotiations for treaty of friendship, commerce and consular rights based on unconditional most-favored-nation principle. | 594 |
| Sept. 17 (43) | <i>From the Chargé in Peru (tel.)</i> Receipt of Foreign Office note stating willingness to negotiate treaty, and desire that the same treatment now accorded Cuban sugar be extended to Peruvian sugar. | 596 |

PERU

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND PERU—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Sept. 29 (32) | <i>To the Chargé in Peru (tel.)</i> Information that special commercial relationship between Cuba and the United States makes it impossible to grant to Peruvian sugar same treatment accorded to Cuban sugar; instructions to endeavor to secure assent to negotiations for an unconditional most-favored-nation treaty, without special privileges or concessions by either Government. | |
| Oct. 5 (47) | <i>From the Chargé in Peru (tel.)</i> Explanation to Foreign Minister and President of the special relationship between United States and Cuba; Peruvian Government's willingness to set aside for present request for special treatment concerning Peruvian sugar and to enter into negotiations for unconditional most-favored-nation treaty; President's desire for preferential treatment for Peruvian sugar in event Cuban treaty should be terminated. | 597 |
| Oct. 14 (36) | <i>To the Chargé in Peru (tel.)</i> Preparation of draft treaty. (Footnotes: Transmittal to Peru in instruction No. 384, November 2. Information that further negotiations failed to result in the signing of a treaty.) | 598 |

POLAND

REQUEST TO THE POLISH GOVERNMENT THAT AMERICAN ARMS MANUFACTURERS
BE GIVEN THE SAME CONSIDERATION AS THOSE OF OTHER NATIONS

| | | |
|-----------------|---|-----|
| 1925 | | |
| Jan. 5 (1) | <i>To the Minister in Poland (tel.)</i> From London, January 1: Request by Colt Firearms Company for informal diplomatic intervention through American Minister at Warsaw because negotiations for sale of arms to Polish Government have been jeopardized by French Government's intervention in behalf of Hotchkiss Company of France. To London: Inability to take action requested. | |
| June 3 (46) | <i>To the Minister in Poland (tel.)</i> Instructions to ascertain whether arms purchase contract has been concluded by Polish Government. | 600 |
| June 4 (43) | <i>From the Minister in Poland (tel.)</i> Adoption of Browning automatic rifles by Polish Government committee on January 17; expectation of Colt agent that contract will be signed by end of June despite opposition of French interests. | 601 |
| July 3 (206) | <i>From the Minister in Poland</i> Memorandum by commercial attaché, June 24 (text printed), advising further difficulty in Colt contract because Prime Minister refuses to sign, presumably on account of French efforts to hold up negotiations, and stating that attaché told Colt agent that he could do little in view of previous instructions from Washington. | 601 |

POLAND

REQUEST TO THE POLISH GOVERNMENT THAT AMERICAN ARMS MANUFACTURERS
BE GIVEN THE SAME CONSIDERATION AS THOSE OF OTHER NATIONS—
Continued

| Date and number | Subject | Page |
|--------------------------|---|------|
| 1925 Aug. 6 (70) | <i>To the Minister in Poland (tel.)</i> Instructions, in case opportunity is offered and without intervening in negotiations, that situation reported would justify oral indications to Polish Government of hope that proper consideration will be shown to American company concerned. | 602 |
| Aug. 17 (238) | <i>From the Minister in Poland</i> Oral representations during Prime Minister's call, August 17, on basis of Department's telegram No. 70 of August 6. | 602 |
| 1926 Apr. 28 (404) | <i>From the Minister in Poland</i> Information that Polish Government has approved Brown- ing machine gun and has asked Colt Company for submission of new bids on terms other than those considered in original contract; request by Colt representative that Legation inter- vene; opinion that Legation may not take any action and that there has been no unfairness or discrimination against com- pany in this connection. | 603 |
| 1927 Jan. 22 (7) | <i>From the Chargé in Poland (tel.)</i> Request by Colt agent for Legation's assistance in effort to secure aircraft machine-gun orders from Polish Government, in view of pressure by British Legation and French military mission on behalf of Vickers and Hotchkiss, respectively; request for instructions whether to take action similar to that instructed in Department's telegram No. 70 of August 6, 1925. | 604 |
| Jan. 24 (1) | <i>To the Chargé in Poland (tel.)</i> Instructions to take suitable occasion to inform Polish Government of U. S. Government's expectation that American competitors will receive same consideration as that accorded to nationals of any other country. | 604 |
| June 25 (24) | <i>To the Minister in Poland (tel.)</i> Information that Colt Company has reopened negotiations for sale of arms to Polish Government; authorization, if assistance is requested, to take action indicated in Depart- ment's telegram No. 1 of January 24. | 604 |
| July 14 (1163) | <i>From the Minister in Poland</i> Information that official of Fabrique Nationale, Belgian licensee of Browning patents and associated with Colt Com- pany in 1925 negotiations, has been empowered by Colt to act as agent in negotiations with Polish Government and has advised that all points of difference regarding contract have been adjusted except for amount of performance bond; in- formation that chief competitor is Hotchkiss Arms Company, believed to be principally American-owned; request for in- structions as to assistance Minister is expected to render in connection with contract, in view of lack of knowledge as to exact proportion of American interest in matter. | 604 |

POLAND

REQUEST TO THE POLISH GOVERNMENT THAT AMERICAN ARMS MANUFACTURERS
BE GIVEN THE SAME CONSIDERATION AS THOSE OF OTHER NATIONS—
Continued

| Date and number | Subject | Page |
|--|--|------|
| 1927 | | |
| Aug. 16 (453) | <i>To the Minister in Poland</i> Directions to request instructions of Department if approached by any other company for assistance in negotiations for sale of arms to Polish Government. | 606 |
| Nov. 8 (1315) | <i>From the Minister in Poland</i> Refusal by Colt Company to accept terms arranged by Belgian agent, and notification thereof to Polish Government; information that Government has taken offense at disqualification of contract; intention of Fabrique Nationale official to continue negotiations in behalf of his own company. | 607 |
| REPRESENTATIONS TO THE POLISH GOVERNMENT FOR INCREASE IN CONTINGENT ALLOWED FOR IMPORTATION OF AMERICAN AUTOMOBILES | | |
| 1927 | | |
| June 27 (1125) | <i>From the Minister in Poland</i> Note to Foreign Minister, June 24, requesting that contingent for importation of American automobiles be allotted as soon as possible and that rules and regulations concerning granting of contingents be furnished (text printed). | 609 |
| July 25 (1173) | <i>From the Minister in Poland</i> Note from Foreign Minister, July 21, stating that contingent system is considered temporary, that balance of trade in U. S. favor proves that more generous treatment has been accorded than to other countries having commercial agreements with Poland, that study is being made of possibility of granting special contingent to American automobiles, assuring equitable treatment with other countries, and enclosing memorandum relative to procedure for contingents (texts printed). | 611 |
| July 30 (30) | <i>To the Minister in Poland (tel.)</i> Instructions to protest discrimination against American trade resulting from issuance to French concern of preponderance of permits for importation of tires and to request statement of basis on which system of contingents is applied; approval of action reported in despatch No. 1125 of June 27. | 613 |
| Aug. 20 (32) | <i>To the Minister in Poland (tel.)</i> Instructions to make additional representations, in view of unsatisfactory character of Foreign Office note of July 21, further defining U. S. Government's position in matter of contingents, dissatisfaction with secrecy of administration of contingent system, desire for means of ascertaining whether equitable treatment guaranteed by <i>modus vivendi</i> is being accorded, and requesting figures on importation licenses for automobiles and tires. | 614 |
| Aug. 23 (1206) | <i>From the Minister in Poland</i> Note to Foreign Minister, August 18, concerning automobiles, tires, and tubes (text printed); oral assurance by Acting Foreign Minister that he would do utmost to secure additional contingents promptly; doubt that anything concrete will result from Legation's representations. | 615 |

POLAND

REPRESENTATIONS TO THE POLISH GOVERNMENT FOR INCREASE IN CONTINGENT ALLOWED FOR IMPORTATION OF AMERICAN AUTOMOBILES—Continued

| Date and number | Subject | Page |
|--------------------------|---|------|
| 1927 Sept. 27 (66) | <i>From the Minister in Poland (tel.)</i> Receipt from Polish Government of verbal offer of contingent for automobiles of 320 metric tons quarterly, beginning January 1, 1928, 240 tons to be charged against General Motors and Ford companies, and of contingent for tires and tubes of 112 tons quarterly; observation that 320-ton contingent would include American cars assembled in Denmark. | 618 |
| Oct. 31 (47) | <i>To the Minister in Poland (tel.)</i> Instructions to inform Polish Government that (1) 320-ton quarterly contingent would be acceptable provided it does not include automobiles assembled from American parts in Denmark or other foreign countries, (2) 112-ton quarterly contingent for tires and tubes would be acceptable, (3) apportionment to certain American manufacturers should be left for negotiations between them and Polish authorities, (4) American contingents should be increased if other countries' contingents are increased, and (5) information should be available at any time on licenses used or available for use. | 619 |
| Nov. 4 (78) | <i>From the Minister in Poland (tel.)</i> Inadvisability of continuing conversations until ready to state clearly position on matter of American automobiles assembled in Denmark. | 621 |
| Nov. 9 (51) | <i>To the Minister in Poland (tel.)</i> Desire for information regarding action Danish Minister is likely to take to obtain contingent for automobiles assembled in Denmark, should such cars be considered as of Danish origin, and for indication of possible amount of such a contingent. | 621 |
| Nov. 24 (82) | <i>From the Minister in Poland (tel.)</i> Information that Danish Minister has been authorized to give same protection to automobiles assembled in Denmark as to articles of Danish origin, and that amount of contingent which may be granted is not known; suggestions that if Legation were authorized to protect only direct importations, American interests would be best served, and that fair chance exists that by unofficial cooperation with Danish Legation, joint contingent greater than present offer of 320 tons quarterly may be obtained. | 622 |
| Dec. 8 (58) | <i>To the Minister in Poland (tel.)</i> Approval of suggestions in Minister's telegram No. 82 of November 24 and instructions to confine negotiations to cars manufactured wholly in the United States, for which it is desired to obtain a contingent of 320 tons quarterly and in any case no less than obtained by any other country. | 622 |
| Dec. 23 (88) | <i>From the Minister in Poland (tel.)</i> Acceptance of contingent for automobiles of 250 tons quarterly in consideration of assurances that United States is receiving treatment equal to that granted to most-favored nation. | 623 |

POLAND

EXTRADITION TREATY BETWEEN THE UNITED STATES AND POLAND AND
ACCOMPANYING PROTOCOL, SIGNED NOVEMBER 22, 1927

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Nov. 22 | <i>Treaty Between the United States of America and Poland</i> For the extradition of fugitives from justice. Accompanying protocol (text printed). | 624 |

RUMANIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND RUMANIA

| | | |
|------------------|---|-----|
| 1925 | | |
| Dec. 11 (98) | <i>From the Minister in Rumania (tel.)</i> Request for specific instructions to undertake negotiation of treaty of friendship, commerce and consular rights based on principles of U. S.-German treaty of 1923. | 631 |
| Dec. 31 (70) | <i>To the Minister in Rumania (tel.)</i> Authorization to discuss matter with appropriate officials and report attitude, together with suggestions Minister may care to submit. | 631 |
| 1926 | | |
| Jan. 9 (111) | <i>From the Minister in Rumania</i> Foreign Office reply that general policy of Rumanian Government prevents immediate discussion of general commercial treaty but that when certain studies are completed, it will be glad to consider matter, and that in meantime it desires to exchange notes regulating commercial relations; request for instructions. (Footnote: Signature of exchange of notes according mutual unconditional most-favored-nation treatment in customs matters, February 26.) | 632 |
| 1927 | | |
| Apr. 2 (397) | <i>From the Minister in Rumania</i> Information that Rumania appears to be entering upon new commercial policy and that in no case will most-favored-nation clause be granted with respect to whole customs tariff; understanding, however, that United States will be granted most-favored-nation treatment in fact although not in theory; note to Foreign Office, March 24 (text printed), explaining attitude toward most-favored-nation principle and requesting that regime established by exchange of notes, February 26, 1926, be continued until superseded by general commercial treaty. | 632 |
| May 9 (19) | <i>To the Minister in Rumania (tel.)</i> Instructions that unless it becomes evident Rumania will consent to negotiate unconditional most-favored-nation treaty, best policy will be to attempt to maintain present <i>modus vivendi</i> as long as possible. | 636 |
| May 12 (416) | <i>From the Minister in Rumania</i> Information that for time being exchange of notes will remain in force; unlikelihood of <i>modus vivendi</i> being discontinued; apparent disagreement in Rumanian Government circles concerning basis of commercial treaty policy. | 636 |
| 1928 | | |
| Mar. 16 (555) | <i>From the Minister in Rumania</i> Preliminary studies by Foreign Office of U. S.-German treaty, after which delegation will confer with American Minister regarding possibility of drawing up commercial treaty. | 637 |

RUMANIA

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROTESTS BY JEWISH GROUPS
REGARDING TREATMENT OF JEWS IN RUMANIA

| Date and number | Subject | Page |
|-----------------|---|------|
| 1927 | | |
| Jan. 10 | <i>From the Minister in Rumania (tel.)</i> | 637 |
| (1) | Information that Foreign Minister has called attention to resolutions of protest adopted by Jewish meetings in New York against anti-Semitic disorders in Rumania and has asked American Minister to inform Department of his observations on the subject during his stay in Rumania; opinion that no organized persecution exists. (Footnote: Resolution by American Jewish Congress (text printed), transmitted to Department in letter from Rabbi Stephen S. Wise, January 12.) | |
| Jan. 13 | <i>To the Minister in Rumania (tel.)</i> | 638 |
| (2) | Protest by delegation headed by Rabbi Wise and request for U. S. Government's intercession with Rumanian Government; press release (excerpt printed) concerning the interview, stating that Secretary gave lengthy and sympathetic hearing and will reply after making careful study of allegations. | |
| Feb. 12 | <i>Memorandum by the Chief of the Division of Near Eastern Affairs of a Conversation Between the Secretary of State, Rabbi Stephen S. Wise, and Judge Milton Strasburger</i> | 638 |
| | Explanation by Secretary of inadmissibility of formal representations to a foreign government concerning its internal affairs, but willingness to call in Rumanian Minister and inform him of state of public opinion and of the expression that public opinion had recently received. | |
| Feb. 17 | <i>Memorandum of a Conversation Between the Secretary of State, the Rumanian Minister, and the Chief of the Division of Near Eastern Affairs</i> | 640 |
| | Informal expression to Rumanian Minister of attitude of American public opinion toward Jewish question in Rumania, and exhibition of communications received at Department, with particular attention to resolution of protest by American Jewish Congress. | |

AMENDS BY THE RUMANIAN GOVERNMENT FOR INJURIES TO AN AMERICAN CITIZEN
RESULTING FROM RIOTS AT ORADEA-MARE

| | | |
|---------|---|-----|
| 1927 | | |
| Dec. 10 | <i>To the Minister in Rumania (tel.)</i> | 641 |
| (41) | Press report of wounding of Mr. W. N. Keller, an American citizen, by rioting Rumanian students engaged in anti-Semitic and anti-Magyar disturbances at Oradea-Mare; instructions to investigate and report. | |
| Dec. 10 | <i>From the Minister in Rumania</i> | 641 |
| (508) | Report of anti-Semitic riots, December 5 and 6, in which Mr. Keller was attacked and injured; protest to Foreign Minister, December 9, requesting punishment of crime and payment of proper compensation to Mr. Keller (text printed); Foreign Minister's expression of regret and assurance of satisfaction if situation is found to be as reported. | |
| Dec. 11 | <i>From the Minister in Rumania (tel.)</i> | 643 |
| (56) | Apparent truthfulness of report; Foreign Minister's assurance, December 10, of satisfaction as soon as Government investigation is completed. | |

RUMANIA

AMENDS BY THE RUMANIAN GOVERNMENT FOR INJURIES TO AN AMERICAN CITIZEN
RESULTING FROM RIOTS AT ORADEA-MARE—Continued

| Date and number | Subject | Page |
|------------------|---|------|
| 1927 | | |
| Dec. 14 (58) | <i>From the Minister in Rumania (tel.)</i> Information that Keller case is settled except for determination of amount of claim. | 643 |
| Dec. 20 (511) | <i>From the Minister in Rumania</i> Report of progress of Keller case; information that only question of amount of damages remains, and that claim will probably not be large. | 643 |
| 1928 | | |
| Feb. 18 (543) | <i>From the Minister in Rumania</i> Settlement of Keller claim for \$2500; statement to press by Mr. Keller (text printed). | 647 |

RUSSIA

GOOD OFFICES OF THE NORWEGIAN GOVERNMENT IN BEHALF OF CERTAIN
AMERICAN CITIZENS IMPRISONED IN RUSSIA

| | | |
|------------------|---|-----|
| 1926 | | |
| Aug. 26 (298) | <i>To the Chargé in Norway</i> Instructions to bring informally to attention of Foreign Office plight of three American citizens, Messrs. Kudrasheff, Chevalier, and Kopman, who have been imprisoned by Soviet authorities, and to express hope that Norwegian Government may be willing to use its good offices in their behalf. | 648 |
| Nov. 22 (903) | <i>From the Minister in Norway</i> Promise of Foreign Office to use good offices; Foreign Office note, November 18, enclosing excerpt from report of Norwegian Minister in Russia which states that nothing can be done for Messrs. Kudrasheff and Kopman because they were born in Russia and reverted to status of Russian citizens upon return to that country, but that there are good prospects for release of Mr. Chevalier (texts printed). | 649 |
| Dec. 27 (918) | <i>From the Minister in Norway</i> Foreign Office note, December 22, stating that Legation in Moscow has learned privately that Mr. Chevalier has been released but that it could secure no information concerning Messrs. Kudrasheff and Kopman (text printed); information that appropriate expression of thanks has been made to Foreign Office. | 651 |
| 1927 | | |
| Mar. 10 (961) | <i>From the Minister in Norway</i> Foreign Office note, March 5, stating that Mr. Kopman has been freed (extract printed). (Footnote: Information from American consul general at Berlin in despatch dated February 28, 1928, that he had been advised that Mr. Kudrasheff died on January 31, 1927, of typhoid fever.) | 652 |

RUSSIA

STATEMENT BY THE DEPARTMENT OF STATE OF THE CONDITIONS UNDER WHICH
RUSSIAN PURCHASES IN THE UNITED STATES MAY BE FINANCED

| Date and number | Subject | Page |
|--------------------|--|------|
| 1927 | | |
| Oct. 17 | <i>From the Vice President of the American Locomotive Sales Corporation</i> Confirmation of discussions at Department, October 14, concerning question of sale to State Railways of the Soviet Republic of railroad equipment on long term credit which may necessitate financial cooperation of banks and possibly sale by latter of securities to the public; request for information whether Department would look with favor upon contracts obtained on terms outlined. | 652 |
| Nov. 28 | <i>To the Vice President of the American Locomotive Sales Corporation</i> Objection to financial projects involving flotation of loans in American market and to banking arrangements not incidental to sale of American commodities to Russia which have amounted to proposals for making advances to the Soviet regime; nonobjection to specific transaction under discussion, except if any financial arrangement would involve sale of securities to the public. | 653 |

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO
AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM
MONOPOLY

| | | |
|------------------|--|-----|
| 1927 | | |
| June 10 (54) | <i>From the Ambassador in Spain (tel.)</i> Probability that Spanish Government may soon establish petroleum monopoly. | 655 |
| June 28 (409) | <i>From the Ambassador in Spain</i> Indication that decree establishing petroleum monopoly may soon be issued; Ambassador's uncertainty as to form monopoly will take, but impression that fair price will be paid for all interests; intention to discuss matter with Gen. Primo de Rivera, President of Council of Ministers and Minister of State for Foreign Affairs, in view of large American petroleum interests affected. | 655 |
| June 28 | <i>Royal Decree-Law No. 1142, as Published in "La Nación," June 30, 1927</i> Establishing petroleum monopoly. | 659 |
| Aug. 13 (65) | <i>To the Ambassador in Spain (tel.)</i> Information that while U. S. Government opposes establishment of monopolies generally, it cannot appropriately or effectively protest against establishment of petroleum monopoly in Spain, and that it expects full and fair compensation to expropriated companies; inadvisability of representations at present. | 667 |
| Aug. 26 (476) | <i>From the Ambassador in Spain</i> Plan to limit activities to observing and reporting developments; indication of organized opposition in Spain to monopoly, and chance that it may be abandoned. | 668 |

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO
AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM
MONOPOLY—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Sept. 6 (500) | <i>From the Ambassador in Spain</i> Information that bids for the monopoly have been submitted by six organizations and are now being considered by a special board. | 669 |
| Sept. 23 (530) | <i>From the Ambassador in Spain</i> Preliminary acceptance, September 21, of bid tendered by Banco Urquijo group; possibility that two American and British interests, Standard Oil Co. of New Jersey and Royal Dutch Shell, have reached agreement on policy they will pursue. | 670 |
| Oct. 12 (562) | <i>From the Ambassador in Spain</i> Information that on October 3, after General Primo had twice failed to keep appointments, Standard Oil and Shell representatives left joint memorandum stating that neither would enter into any relations with monopoly to supply it with petroleum (text printed). | 671 |
| Oct. 21 (105) | <i>From the Ambassador in Spain (tel.)</i> Publication of Royal decree, October 20, empowering Stamp Tax Bureau to take any action necessary to assure supply, distribution, and sale of petroleum products until monopoly company, awarded to banking consortium by another decree of same date, is in operation, and authorizing Finance Minister to seize any petroleum organizations deemed necessary, with indemnification to be made later. | 673 |
| Oct. 22 (107) | <i>From the Ambassador in Spain (tel.)</i> Fear of foreign oil interests that stocks and property may be seized at once and inadequate compensation given, particularly for business goodwill; inquiry whether to be guided by Department's telegram No. 65 of August 13, in case fair compensation is made. | 674 |
| Oct. 24 | <i>Memorandum by the Chief of the Division of Western European Affairs</i> Conversation with Standard Oil representatives, in which it was stated that U. S. Government could not assist American interests until denial of justice in indemnification or discrimination in favor of other foreign interests occurred. | 674 |
| Oct. 24 (583) | <i>From the Ambassador in Spain</i> Information that Department's instructions are being awaited; Royal Decree-Laws No. 1753 and No. 1782, dated October 17, and published October 20 and 21, respectively (texts printed). | 675 |
| Nov. 1 (83) | <i>To the Ambassador in Spain (tel.)</i> Details of discussion with Standard Oil representative of U. S. policy toward protection of interests affected by monopoly; authorization to answer inquiries with this information and to state readiness to assist American companies to secure fair hearing in expropriation proceedings; information that Department can take no position on question of compensation for goodwill except as each case of expropriation arises. | 680 |

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

| Date and number | Subject | |
|-------------------------|--|-----|
| 1927 Nov. 5 (112) | <i>From the Ambassador in Spain (tel.)</i> Suggestion, in view of British representations to Spanish Government for agreement regarding price and payment of adequate compensation prior to expropriation, that U. S. Government make representations. | 682 |
| Nov. 8 (85) | <i>To the Ambassador in Spain (tel.)</i> Authorization to inform Spanish Government that, while U. S. Government does not object in principle to establishment of oil monopoly, it expects that full and fair compensation will be made for value of property expropriated, including damages caused to other property by the expropriation, and expects no less favorable treatment for its nationals than is accorded nationals of other countries. | 683 |
| Nov. 11 (89) | <i>To the Ambassador in Spain (tel.)</i> Protest by Spanish Ambassador against refusal of Standard Oil and Shell companies to deal with petroleum monopoly; Department's reply that question was not one with which it was concerned. | 683 |
| Nov. 14 (115) | <i>From the Ambassador in Spain (tel.)</i> Oral representations to General Primo on basis of Department's telegram No. 85 of November 8; Primo's assurance of nondiscrimination against Americans and of adequate compensation following expropriation. | 684 |
| Nov. 16 (622) | <i>From the Ambassador in Spain</i> Installation of petroleum monopoly inspectors in Madrid office of Babel and Nervion, Standard Oil Company subsidiary, and in Shell office under authority of Stamp Tax Bureau communications of November 3 (texts printed). | 684 |
| Nov. 16 (623) | <i>From the Ambassador in Spain</i> Details of interview with General Primo, November 14, at which Ambassador discussed U. S. attitude and presented memorandum dated November 10 making written representations (text printed). | 687 |
| Nov. 16 (269) | <i>From the Spanish Ministry of State to the American Embassy</i> Assurance that equal treatment in valuation of expropriated property will be applied to American, other foreign, and Spanish interests, and that fair compensation will be made for intrinsic value of properties but not for damages or loss resulting to an industry which ceases to do business. | 693 |
| Nov. 18 (120) | <i>From the Ambassador in Spain (tel.)</i> Observation that Spanish note declares Government's right to take over any industry at any time without obligation to take account of earning power and goodwill; renewal by British of representations concerning advance compensation for expropriated property. | 694 |
| Nov. 22 (94) | <i>To the Ambassador in Spain (tel.)</i> Advice that representations already made adequately reserve U. S. position and that Department will await developments in such specific expropriation proceedings as may arise. | 694 |

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO
AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM
MONOPOLY—Continued

| Date and number | Subject | Page |
|--------------------------|--|------|
| 1927 Nov. 30 (654) | <i>From the Ambassador in Spain</i> Seizure of Porto Pi Company plants, without action toward reimbursement or valuation; imminence of seizure of Alicante plant of Babel and Nervion Company, which recently refused monopoly company's request to store oil; monopoly company's request to Babel and Nervion, November 27, and company's reply of refusal, November 28 (texts printed). | 695 |
| Dec. 1 (132) | <i>From the Ambassador in Spain (tel.)</i> Seizure of Alicante plant without compensation; advice that Ambassador has notified Spanish Government that he is aware of seizure and is reserving all rights. | 698 |
| Dec. 2 (99) | <i>To the Ambassador in Spain (tel.)</i> Instructions to ascertain if seizure is isolated instance and whether advance arrangements were made for valuation or agreement upon price. | 698 |
| Dec. 6 (133) | <i>From the Ambassador in Spain (tel.)</i> Information that Porto Pi seizure was without previous valuation; that Alicante plant has been arbitrarily directed to store monopoly supplies, without offer of compensation, and that company has protested seizure; that two Shell subsidiaries have received seizure notices, without valuation being made. | 698 |
| Dec. 7 (135) | <i>From the Chargé in Spain (tel.)</i> Information that Standard Oil Company made formal claim on December 5 for valuation and indemnification for entire oil properties, on basis of Spanish Constitution, Civil Code, Royal decree of June 28, and 1918 charter. | 699 |
| Dec. 7 (100) | <i>To the Chargé in Spain (tel.)</i> U. S. Government's concern over seizures being made without attempt to arrange prompt payment of fair value of property; information that it looks to Spanish Government for prompt compensation for property seized and for use of property up to date of compensation; authorization to make representations in this sense. | 700 |
| Dec. 7 (665) | <i>From the Chargé in Spain</i> Monopoly company communication to Babel and Nervion, November 30, advising of Stamp Tax Bureau order for seizure of Alicante plant, and Ambassador's note to Minister of State, December 1, stating awareness of seizure and reserving American rights (texts printed). | 700 |
| Dec. 14 (679) | <i>From the Chargé in Spain</i> Further representations to Minister of State, December 12 (text printed), on basis of Department's telegram No. 100 of December 7; information that representations have also been made by the British and French Ambassadors. | 703 |
| Dec. 14 (685) | <i>From the Chargé in Spain</i> Protest to Finance Minister by Babel and Nervion, December 5, over seizure of Alicante plant, and monopoly company's communication to Babel and Nervion, December 9, advising of Stamp Tax Bureau order for seizure of Valencia plant (texts printed). | 705 |

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

| Date and number | Subject | Page |
|------------------|---|------|
| 1927 | | |
| Dec. 19 (142) | <i>From the Chargé in Spain (tel.)</i> Seizure, without previous notification, of plant at Malaga owned partly by Standard Oil Company; recommendation that strong verbal representations be made against arbitrary procedure. | 711 |
| Dec. 20 (104) | <i>To the Chargé in Spain (tel.)</i> Instructions to make further representations, stating concern over seizure of Malaga plant without previous notification and reiterating U. S. views in matter of compensation. | 711 |
| Dec. 20 (704) | <i>From the Chargé in Spain</i> Protest to Finance Minister by petroleum company, December 16, over seizure of Malaga plant without previous notification (text printed). | 712 |
| Dec. 22 (710) | <i>From the Chargé in Spain</i> Information that monopoly company has made gift of 1 million pesetas to be distributed to petroleum employees who will be discharged because of incorporation into monopoly of properties in which they are now employed; arrangements by Government for distribution thereof. | 716 |
| Dec. 26 (713) | <i>From the Chargé in Spain</i> Verbal representations to General Primo and presentation of <i>note verbale</i> dated December 23 (text printed); information that Chargé ignored any mention of note of December 21 from Ministry of State (text printed), which makes unsatisfactory reply to previous American representations; verbal representations to Minister of Finance. | 717 |
| Dec. 28 (715) | <i>From the Chargé in Spain</i> Continuance of seizures of Spanish and foreign-owned property without notification; monopoly company communication to Babel and Nervion, December 21 (text printed), advising of Stamp Tax Bureau order to proceed with seizure of 16 plants; decision of Vacuum Oil Company to cooperate with monopoly; information that Standard Oil and Shell interests maintain policy of refusal to supply monopoly and desire only to receive compensation for property and long-established business and to withdraw. | 724 |
| Dec. 30 (146) | <i>From the Chargé in Spain (tel.)</i> Publication of Royal decree making petroleum monopoly effective January 1, 1928; inquiry as to accuracy of Washington despatch in local press which states that compensation for expropriated property will be generous, that American Government is entirely satisfied with Spanish explanation of existing situation, that immediate payment will be made, and which purports to come from State Department. | 728 |
| Dec. 31 (103) | <i>To the Chargé in Spain (tel.)</i> Press statement (text printed) advising that Spanish assurances with respect to compensation, while indicative of hope, cannot be regarded as wholly satisfactory until translated into appropriate action. | 729 |

SPAIN

CONTINUATION OF THE COMMERCIAL "MODUS VIVENDI" BETWEEN THE UNITED STATES AND SPAIN

| Date and number | Subject | Page |
|------------------|--|------|
| 1927 | | |
| May 25 | <i>Royal Decree No. 958, as Published in "Gaceta de Madrid," May 26, 1927</i> Continuing, for a 6-months' period, the commercial <i>modus vivendi</i> between the United States and Spain on most-favored-nation basis, and providing for conclusion of commercial treaty within that period and denouncement of <i>modus vivendi</i> . | 729 |
| Oct. 18 (103) | <i>From the Ambassador in Spain (tel.)</i> Suggestion that, because of uncertainty of prolongation of present commercial <i>modus vivendi</i> , negotiations be instituted to prolong agreement indefinitely, with provision for denunciation on 3 months' notice. | 730 |
| Oct. 26 (371) | <i>From the American Ambassador to the Spanish Minister of State for Foreign Affairs</i> Proposal that <i>modus vivendi</i> be indefinitely extended, subject to denunciation on 3 months' notice. | 731 |
| Nov. 7 (262) | <i>From the Spanish Minister of State for Foreign Affairs to the American Ambassador</i> Acceptance of proposal to extend <i>modus vivendi</i> indefinitely, until 3 months after denunciation or upon conclusion of new commercial treaty. | 732 |
| Nov. 7 | <i>Statement by the Spanish Government Published in "Gaceta de Madrid," November 12, 1927</i> Announcing extension of <i>modus vivendi</i> . | 733 |

NEGOTIATIONS CONCERNING THE AMERICAN EMBARGO AGAINST SPANISH FRUITS AND VEGETABLES AFFECTED BY THE MEDITERRANEAN FRUIT FLY

| | | |
|--------------------------------|---|-----|
| 1927 | | |
| Aug. 10 | <i>To the Spanish Chargé</i> Information, in response to Spanish Government's request, that Department of Agriculture will send an expert about September 1 to examine situation in Spain with regard to infestation of grapes by Mediterranean fruit fly. | 733 |
| Sept. 19 (Dip. Ser. 660) | <i>To Diplomatic and Consular Officers</i> Statement by Secretary of Agriculture, August 20 (text printed), declaring that no trade considerations enter into any plant quarantine restrictions, which are based strictly on exclusion of pests. | |
| Oct. 20 (104) | <i>From the Ambassador in Spain (tel.)</i> Recommendation that Foreign Office request for extension of expert's investigation to tomato situation in Canary Islands be granted. | 736 |
| Oct. 20 (76) | <i>To the Ambassador in Spain (tel.)</i> Information that Department of Agriculture has authorized Canary Islands investigation. | 736 |
| Dec. 10 | <i>To the Spanish Ambassador</i> Communication from Department of Agriculture, December 3 (text printed), stating that, on basis of American expert's investigation, it is inadvisable to permit entry of Spanish grapes and oranges, but that Canary Islands and Spanish tomatoes may be permitted entry on condition of continued freedom from injurious insects; and outlining conditions under which other products are permitted entry. | 737 |

SWEDEN

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND SWEDEN

| Date and number | Subject | |
|--------------------|---|-----|
| 1925 | | |
| July 24 | <i>To the Swedish Minister</i> Transmittal of draft treaty of friendship, commerce and consular rights. | 740 |
| 1927 | | |
| Mar. 24 | <i>From the Swedish Legation</i> Understandings and request for explanations with regard to provisions of draft treaty. | 741 |
| June 13 | <i>To the Swedish Minister</i> Memorandum giving explanations requested (text printed); offer to discuss any matters on which further explanation is desired. | 746 |
| June 14 | <i>From the Swedish Minister</i> Assurance that treaty matter has been taken up with Swedish Government and that offer will be availed of, should occasion arise. (Footnote: Information that continuation of negotiations did not result in conclusion of a treaty.) | 753 |

NONAPPLICABILITY TO THE PHILIPPINE ISLANDS OF ARRANGEMENTS BETWEEN
THE UNITED STATES AND FOREIGN GOVERNMENTS FOR RECIPROCAL EXEMPTION
FROM INCOME TAX ON SHIPPING PROFITS

| | | |
|---------|---|-----|
| 1926 | | |
| Aug. 21 | <i>From the Swedish Legation</i> Desire for extension to Philippine Islands of arrangement between United States and Sweden for reciprocal exemption from income tax on shipping profits. | 754 |
| 1927 | | |
| Aug. 10 | <i>To the Swedish Chargé</i> Impossibility of extending reciprocal exemption to Philippine Islands, because the pertinent acts of Congress do not apply thereto, and Philippine law does not provide such exemption. | 754 |

SWITZERLAND

RESTRICTIONS BY SWISS AUTHORITIES UPON DIPLOMATIC IMMUNITIES OF MEM-
BERS OF STAFFS OF FOREIGN MISSIONS IN SWITZERLAND

| | | |
|-------------------|---|-----|
| 1926 | | |
| Oct. 2 (523) | <i>To the Minister in Switzerland</i> Instructions, in connection with Swiss authorities' refusal to act on Minister's protest against imposition of traffic fine on his Swiss chauffeur, to make representations on grounds of the diplomatic immunity extended to members of staffs of foreign missions in the United States as a convenience and courtesy, and on basis of reciprocity. | 756 |
| 1927 | | |
| Jan. 29 (1104) | <i>From the Chargé in Switzerland</i> Refusal of Swiss Government to recognize jurisdictional immunity for Swiss subjects under any conditions or to see reason for granting immunity to American employees of Swiss Minister in the United States. | 759 |

SWITZERLAND

RESTRICTIONS BY SWISS AUTHORITIES UPON DIPLOMATIC IMMUNITIES OF MEMBERS OF STAFFS OF FOREIGN MISSIONS IN SWITZERLAND—Continued

| Date and number | Subject | Page |
|-------------------|--|------|
| 1927 | | |
| June 10 (1232) | <i>From the Chargé in Switzerland</i> Imposition by Swiss authorities of trespass fine on a clerk of the Legation; attitude of Swiss Government that chief of mission enjoys immunity for himself, family, and domestics, that other accredited diplomatic officers enjoy immunity from local jurisdiction and taxation, and that remainder of personnel are exempted by courtesy from local taxation and laws covering surrender of passports, but do not enjoy immunity from local police jurisdiction. | 760 |
| July 29 (24) | <i>To the Minister in Switzerland</i> Information that under international law the immunities enjoyed by a chief of mission are shared by his suite; instructions to recall matter to attention of authorities, expressing hope that charges will be dropped and pointing out extension of protection to clerks in foreign missions at Washington; suggestion that payment of fine under protest may be advisable if case is likely to be protracted. | 762 |

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL RELATIONS, EFFECTED BY EXCHANGE OF NOTES, FEBRUARY 17, 1927

| | | |
|----------------|---|-----|
| 1927 | | |
| Jan. 4 (1) | <i>To the High Commissioner in Turkey (tel.)</i> Information that general treaty between the United States and Turkey, signed at Lausanne, August 6, 1923, will be taken up in secret executive session of Senate, January 4. | 765 |
| Jan. 11 (5) | <i>To the High Commissioner in Turkey (tel.)</i> Indications that Senate will soon either reject treaty or consent to ratification on condition that ratifications shall not be exchanged until United States shall have negotiated a naturalization convention with Turkey. | 765 |
| Jan. 13 (5) | <i>From the High Commissioner in Turkey (tel.)</i> Belief of Turkish press that Senate ratification is foregone conclusion. | 765 |
| Jan. 13 (6) | <i>To the High Commissioner in Turkey (tel.)</i> Instructions to endeavor discreetly to dispel idea that Senate approval is foregone conclusion. | 766 |
| Jan. 18 (9) | <i>To the High Commissioner in Turkey (tel.)</i> Failure of Senate to approve treaty; instructions to prepare to proceed to Angora upon receipt of complete instructions. | 766 |

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL RELATIONS, EFFECTED BY EXCHANGES OF NOTES, FEBRUARY 17, 1927—Continued

| Date and number | Subject | Page |
|-----------------|--|------|
| 1927 | | |
| Jan. 18 (10) | <i>To the High Commissioner in Turkey (tel.)</i> Instructions to confer at Angora with Turkish Premier and Foreign Minister, explaining reasons for Senate refusal of consent and U. S. desire to maintain friendly relations; to endeavor to ascertain Turkish views toward present situation and possibility of (1) an exchange of notes providing for maintenance of <i>status quo</i> with regard to treatment of Turks in the United States and Americans in Turkey and for resumption of diplomatic relations, (2) exchange of notes according most-favored-nation treatment in customs matters, to be followed by a resumption of diplomatic relations, or (3) resumption of diplomatic negotiations without previous exchange of notes. | 766 |
| Jan. 19 (8) | <i>From the High Commissioner in Turkey (tel.)</i> Request for instructions whether to intimate that Senate action is advisory and that President has not rejected treaty, and that it is possible that treaty may be resubmitted to next session; inquiry concerning procedure for resumption of diplomatic relations, in view of Turkish practice not to enter into diplomatic relations until after exchange of ratifications of treaty of amity. | 768 |
| Jan. 20 (12) | <i>To the High Commissioner in Turkey (tel.)</i> Instructions to make clear that President has not rejected treaty but that Senate refused consent to ratification; doubt that resubmission to next session would be practicable because of political situation in Senate, but permission to sound out Turkish Government on this point; information that diplomatic relations would be resumed by accrediting an Ambassador; hope that either procedure (1) or (2) of Department's telegram No. 10 of January 18 will be acceptable to Turkish Government in lieu of treaty of amity. | 769 |
| Jan. 21 (13) | <i>To the High Commissioner in Turkey (tel.)</i> Editorial comment (extracts printed) criticizing Senate rejection of treaty. | 769 |
| Jan. 21 (11) | <i>From the High Commission in Turkey (tel.)</i> Departure of High Commissioner, Admiral Bristol, for Angora, January 20; information that Turkish editorial comment on nonratification is mild and devoid of hostile criticism or suggestions of retaliation (extract printed). | 770 |
| Jan. 22 (14) | <i>To the High Commission in Turkey (tel.)</i> Possibility that the recent change in attitude of some of the opponents of the treaty might be developed into something more tangible if Turkish Government should take an attitude which would indicate desirability of resubmission to Senate. | 771 |
| Jan. 22 (1) | <i>From the High Commissioner in Turkey (tel.)</i> Information that <i>aide-mémoire</i> and oral explanations have been given to Foreign Minister as instructed, and that further conversations will be held January 24; Foreign Minister's desire for further details concerning failure of ratification. | 772 |
| Jan. 23 (12) | <i>From the High Commission in Turkey (tel.)</i> Information that press comment continues to be conciliatory and friendly. | 772 |

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL RELATIONS, EFFECTED BY EXCHANGES OF NOTES, FEBRUARY 17, 1927—Continued

| Date and number | Subject | Page |
|-----------------|--|------|
| 1927 | | |
| Jan. 23 | <i>To the High Commissioner in Turkey (tel.)</i> | 773 |
| (1) | Further details concerning failure of ratification; instructions to keep in mind that main objective of present negotiations is to establish some kind of official relations, and later to attempt to revive treaty. | |
| Jan. 24 | <i>From the High Commission in Turkey (tel.)</i> | 774 |
| (13) | Release to Angora and Constantinople press of substance of Department's telegram No. 13 of January 21; Admiral Bristol's request for comments of opposition press. | |
| Jan. 24 | <i>From the High Commissioner in Turkey (tel.)</i> | 774 |
| (3) | Foreign Minister's suggestions: (1) Negotiation of simple treaty of amity which would facilitate renewal of existing <i>modus vivendi</i> ; (2) preference for suggested treaty rather than resubmission of Lausanne Treaty; (3) inability to resume relations by appointing Ambassadors until after exchange of ratifications of treaty of amity. Request for instructions whether or not to make further attempts to secure agreement on resumption of diplomatic relations. | |
| Jan. 25 | <i>To the High Commission in Turkey (tel.)</i> | 777 |
| (16) | Information that there has been little or no editorial comment approving Senate action. | |
| Jan. 25 | <i>From the High Commissioner in Turkey (tel.)</i> | |
| (4) | Interest of Prime Minister in negotiation of a treaty of amity prior to appointment of Ambassadors. | |
| Jan. 27 | <i>To the High Commissioner in Turkey (tel.)</i> | 778 |
| (3) | Objections to treaty of amity as a condition to resumption of diplomatic relations; inquiry whether diplomatic and consular relations might be resumed on basis of exchange of notes which would cover practically all matters suggested by Foreign Minister. | |
| Jan. 30 | <i>From the High Commissioner in Turkey (tel.)</i> | 779 |
| (5) | Belief that Foreign Minister may possibly agree to exchange of notes; recommendation that formal proposals replace informal conversations and that a protocol of agreement, rather than exchange of notes, be signed, as formal procedure would probably be more acceptable; request for a free hand to renew at once commercial <i>modus vivendi</i> which is about to expire. | |
| Feb. 1 | <i>To the High Commissioner in Turkey (tel.)</i> | |
| (4) | Approval of recommendations; instructions to commence formal negotiations for renewal of <i>modus vivendi</i> by exchange of notes, and for exchange of notes or protocol for resuming diplomatic and consular relations. | |
| Feb. 1 | <i>To the High Commissioner in Turkey (tel.)</i> | |
| (5) | Provisions to be incorporated in proposed exchange of notes or protocol (text printed). | |

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC
AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL
RELATIONS, EFFECTED BY EXCHANGES OF NOTES, FEBRUARY 17, 1927—Continued

| Date and number | Subject | Page |
|--------------------|---|------|
| 1927 | | |
| Feb. 3 (6) | <i>From the High Commissioner in Turkey (tel.)</i> Agreement in principle by Turkish Government to exchange of notes; desire of Foreign Minister that provisions for negotiation of treaty of amity be included in proposed note; High Commissioner's intention to try to induce him to accept protocol or note as full substitute for treaty of amity; suggestion that negotiation of a commercial convention might be offered as a substitute for Lausanne Treaty. | 785 |
| Feb. 6 (8) | <i>From the High Commissioner in Turkey (tel.)</i> Urgent recommendation that Lausanne Treaty be resubmitted to Senate, even though it is understood in advance that action would probably not be taken during present session. | 786 |
| Feb. 7 (9) | <i>From the High Commissioner in Turkey (tel.)</i> Draft note submitted to Turkish Government (text printed). | 787 |
| Feb. 8 (5[6?]) | <i>To the High Commissioner in Turkey (tel.)</i> Résumé of Department's understanding of present status of negotiations; impracticability of immediate resubmission of treaty to Senate, and possibility that exchange of notes or protocol might furnish suitable occasion therefor; information that present objective is to secure assent to exchange of notes or protocol as outlined in Department's telegram No. 5, February 1. | 788 |
| Feb. 10 (11) | <i>From the High Commissioner in Turkey (tel.)</i> Foreign Minister's acceptance in principle of draft note, with certain modifications, including removal of article covering commercial <i>status quo</i> and restatement in separate note; recommendation that Department approve as amended, grant authority to sign, and telegraph full powers. | 791 |
| Feb. 14 (7) | <i>To the High Commissioner in Turkey (tel.)</i> Approval of texts of proposed notes; authorization to sign; minor modifications desired by Department; desire that Turkish Government agree for the present not to give publicity to texts of the notes. | 792 |
| Feb. 16 (15) | <i>From the High Commissioner in Turkey (tel.)</i> Press report (text printed) of substance of the negotiations; information that the notes as modified by Department's instructions will be signed February 17. | 793 |
| Feb. 17 | <i>From the American High Commissioner to the Turkish Minister for Foreign Affairs</i> Agreement for regularization of general relations between the United States and Turkey. | 794 |
| Feb. 17 | <i>From the Turkish Minister for Foreign Affairs to the American High Commissioner</i> Agreement for regularization of general relations between Turkey and the United States. | 796 |
| Feb. 17 | <i>From the American High Commissioner to the Turkish Minister for Foreign Affairs</i> Agreement for maintenance of the <i>status quo</i> in commercial relations. | 797 |

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL RELATIONS, EFFECTED BY EXCHANGES OF NOTES, FEBRUARY 17, 1927—Continued

| Date and number | Subject | Page |
|-----------------|--|------|
| 1927 | | |
| Feb. 17 | <i>From the Turkish Minister for Foreign Affairs to the American High Commissioner</i> | 798 |
| | Agreement for maintenance of the <i>status quo</i> in commercial relations. | |
| Feb. 17 (16) | <i>From the High Commissioner in Turkey (tel.)</i> Information that the notes have been signed and exchanged and are now in effect, and that, at request of Foreign Minister, additional note was exchanged stating that full powers to sign will be exchanged as soon as possible (text printed); request that full powers be sent; request for information as to when texts of notes may be released. | 799 |
| Feb. 21 (12) | <i>To the High Commissioner in Turkey (tel.)</i> Arrangements for forwarding full powers; request for confirmation of understanding that notes will not require approval of Turkish Assembly before going into effect; intention to advise date when texts may be made public. | 800 |
| Feb. 23 (22) | <i>From the High Commissioner in Turkey (tel.)</i> Confirmation of understanding that Assembly approval is not required. | 800 |
| Feb. 26 (14) | <i>To the High Commissioner in Turkey (tel.)</i> Authorization to return to Constantinople at own discretion. (Footnote: Information that the High Commissioner advised by telegraph that he would leave for Constantinople on March 4.) | 801 |
| Mar. 2 (25) | <i>From the High Commissioner in Turkey (tel.)</i> Recommendation that Department authorize concurrence in Turkish Government's desire for prompt release of texts of notes. | 801 |
| Mar. 9 (23) | <i>To the High Commissioner in Turkey (tel.)</i> Consent to release of texts of notes; instructions to make advance arrangements with Turkish Government for simultaneous release by both Governments. | 801 |
| Mar. 11 (16) | <i>From the High Commissioner in Turkey (tel.)</i> Arrangements for release of texts of notes on March 15; concurrence in Turkish suggestion that only the notes on general and commercial relations be released, since full powers referred to in the other note have not been exchanged. | 802 |
| Mar. 19 (25) | <i>To the High Commissioner in Turkey (tel.)</i> Instructions to proceed to Washington. | 802 |
| May 9 (43) | <i>To the High Commissioner in Turkey (tel.)</i> Instructions to ascertain acceptability of the proposed appointment of Mr. Joseph C. Grew as Ambassador. | 803 |
| May 19 (36) | <i>From the High Commissioner in Turkey (tel.)</i> Turkish Government's approval of proposed appointment of Mr. Grew; inquiry whether official announcement may be made. | 803 |

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL RELATIONS, EFFECTED BY EXCHANGES OF NOTES, FEBRUARY 17, 1927—Continued

| Date and number | Subject | |
|--|--|-----|
| 1927 | | |
| May 21 (49) | <i>To the High Commissioner in Turkey (tel.)</i> Information that official announcement was made May 20; authorization to confirm. (Footnote: Information that Ambassador Grew presented his letter of credence to the President of Turkey on October 12.) | 803 |
| May 24 (39) | <i>From the Chargé in Turkey (tel.)</i> Departure of Admiral Bristol. | 804 |
| May 25 (40) | <i>From the Chargé in Turkey (tel.)</i> Turkish inquiry as to acceptability of proposed appointment of Mouhtar Bey as Ambassador in the United States. | 804 |
| May 27 (52) | <i>To the Chargé in Turkey (tel.)</i> Instructions to inform Turkish Government of acceptability of proposed appointment. (Footnote: Information that the President received the Turkish Ambassador on December 5.) | 804 |
| GOOD OFFICES OF THE AMERICAN EMBASSY IN SUPPORT OF THE REOPENING OF AMERICAN SCHOOLS IN TURKEY | | |
| 1927 | | |
| Nov. 5 (101) | <i>From the Ambassador in Turkey (tel.)</i> Information that Ambassador supported request by American Board of Missions to Foreign Ministry for permission to reopen certain schools in Anatolia; request for instructions, should permission be refused, whether to acquiesce tacitly or to press question; doubt that to make it a formal issue would be advisable. | 804 |
| Nov. 8 (93) | <i>To the Ambassador in Turkey (tel.)</i> Instructions not to make any formal issue of school question; nonobjection to informal use of arguments in support of reopening certain schools. | 805 |
| Nov. 23 (60) | <i>From the Ambassador in Turkey</i> Summary of status of American and other foreign schools in Turkey; <i>aide-memoire</i> to Foreign Office, November 3, supporting American Board's request for permission to reopen certain schools, and Foreign Minister's reply, November 13, proposing negotiations with Board for purchase by Ministry of Public Instruction of American school property in Anatolia prior to considering question of reopening the schools (texts printed). | 806 |
| Dec. 30 (101) | <i>From the Ambassador in Turkey</i> Dispatch, at request of American Board official, of a letter to Foreign Minister, December 2 (text printed), asking that date be set for the desired conference; advice that as yet no reply has been received. (Footnote: Information that in telegram No. 25, February 26, 1928, the Embassy reported that Minister of Public Instruction had authorized addition of a technical section to American school at Mersifoun and reopening of the boys' school at Sivas.) | 810 |

URUGUAY

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND URUGUAY

| Date and number | Subject | Page |
|--------------------------|---|------|
| 1926 Sept. 6 (287) | <i>From the Minister in Uruguay</i> Interest of Acting Foreign Minister in American Minister's informal remarks concerning lack of commercial treaty between the United States and Uruguay and benefits of recent U. S. treaties with Germany and Hungary on the unconditional most-favored-nation basis. | 813 |
| Oct. 11 (24) | <i>To the Minister in Uruguay (tel.)</i> Authorization, in own discretion, to advise Acting Foreign Minister that conversation had been reported to Department, which now instructs that a draft treaty be submitted if such a course would be acceptable. | 814 |
| Oct. 19 (315) | <i>From the Minister in Uruguay</i> Opinion that any attempt to initiate formal negotiations should be postponed pending election results and subsidence of agitation against American meat-packing interests; recommendation that activities be confined to creating a favorable attitude; desire for suggestions as to arguments which might aid in demonstrating benefits which would accrue to Uruguay through adoption of the treaty it is proposed to negotiate. | 815 |
| 1927 June 21 (93) | <i>To the Minister in Uruguay</i> Explanation of advantages which would accrue to Uruguay; authorization, if deemed wise, to convey Department's views to Uruguayan Government and ascertain informally attitude toward undertaking negotiations. | 817 |
| July 29 (51) | <i>From the Minister in Uruguay (tel.)</i> Readiness of Uruguayan Government to examine a draft treaty of friendship, commerce and consular rights. | 819 |
| Sept. 14 (15) | <i>To the Minister in Uruguay (tel.)</i> Information that draft is being prepared and will be forwarded. (Footnote: Information that no draft treaty appears to have been sent; that on September 21, 1928, the Minister in Uruguay stated it was unlikely Uruguay would enter into such a treaty chiefly because Uruguay was opposed to treaties containing the most-favored-nation clause.) | 819 |

VENEZUELA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND VENEZUELA

| | | |
|---------------------------|--|-----|
| 1926 Aug. 17 (1053) | <i>To the Minister in Venezuela</i> Instructions to ascertain attitude of Venezuelan Government toward undertaking negotiations for conclusion of a treaty of friendship, commerce and consular rights embodying unconditional most-favored-nation principle. | 820 |
| 1927 July 7 (1354) | <i>From the Minister in Venezuela</i> Disinclination of Venezuelan Government to enter into negotiations, and reasons therefor. (Footnote: Information that there were no further negotiations for a treaty with Venezuela.) | 823 |

YEMEN

DISINCLINATION OF THE UNITED STATES TO ENTER INTO TREATY RELATIONS
WITH THE IMAM OF YEMEN

| Date and number | Subject | Page |
|------------------|---|------|
| 1927 | | |
| Mar. 15 (207) | <i>From the Vice Consul at Aden</i> Desire of Imam of Yemen to enter into treaty relations with the United States on basis of draft treaty of recognition, providing for friendship and freedom of commerce (text printed). | 825 |
| May 20 | <i>To the Vice Consul at Aden</i> Disinclination to enter into formal treaty relations with Yemen; instructions to send informal reply expressing appreciation for evidence of friendship and good will and stating that the present time is not considered appropriate or opportune for entering into negotiations. | 826 |

YUGOSLAVIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN
THE UNITED STATES AND YUGOSLAVIA

| | | |
|------------------|--|-----|
| 1926 | | |
| Aug. 7 (16) | <i>To the Minister in the Kingdom of the Serbs, Croats and Slovenes (tel.)</i> Instructions to ascertain whether Yugoslavia is disposed to enter into negotiation of a treaty of friendship, commerce and consular rights, containing unconditional most-favored-nation principle. | 828 |
| Sept. 1 (27) | <i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes (tel.)</i> Yugoslav acceptance of proposal for treaty negotiations and inquiry whether U. S. Government would agree to negotiate conventions covering legal rights, judgments, nationality, extradition, and American inheritance rights. | 828 |
| 1927 | | |
| Mar. 23 (64) | <i>To the Minister in the Kingdom of the Serbs, Croats and Slovenes</i> Instructions to present draft treaty of friendship, commerce and consular rights (text printed); U. S. position concerning general and specific provisions thereof; information that draft treaty protects legal and inheritance rights; desire for opinion of Yugoslav Government on draft of naturalization convention previously submitted; unwillingness to consider new extradition convention until after receipt of more information concerning previous Yugoslav proposal to supplant existing U. S.-Serbia convention; disposition to receive draft of convention relating to judgments. | 829 |
| Dec. 22 (344) | <i>From the Minister in the Kingdom of the Serbs, Croats and Slovenes</i> Amplification of various changes in draft treaty suggested in Foreign Office <i>aide-mémoire</i> of October 20 (text printed). (Footnote: Information that negotiations did not result in the signing of a treaty.) | 860 |

GREECE

NEGOTIATIONS FOR FUNDING THE GREEK DEBT TO THE UNITED STATES AND FOR AN ADDITIONAL LOAN TO GREECE¹

868.51 War Credits/443 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, December 27, 1926—4 p. m.

[Received 6:05 p. m.]

72. In conversation with me in which he requested that his views be regarded as his own and therefore unofficial, Mr. Michalakopoulos, the Minister of Foreign Affairs, stated that the present Greek Government would not consider itself bound by any debt negotiations conducted under the dictatorship of Pangalos. The Minister then suggested that legal points relative to the American debt be dropped from consideration and that settlement be made on basis of new loan of \$48,000,000, of which \$30,000,000 would be used for pressing work for refugee settlement, which, although available resources are limited, is yielding unanticipated results, and that the other \$18,000,000 represent the principal and interest now due from Greece. He believed the new loan would be morally justified because of urgent humanitarian considerations and that for it there would be solid fiscal guaranties controlled by the International Financial Commission. He added that an American representative would be invited to take part in the spending of the money. Such a settlement would have the effect of paying in full the American debt and of stabilizing the economic and social life of Greece.

I called the Minister's attention to the shortness of the present term of Congress and remarked that the same results would apparently be achieved by settlement of the Greek debt to the United States followed by a commercial loan in the American market. If the Department wishes to comment on the conversation reported above, it seems likely that the Greek Minister in the United States will be instructed by his Government to submit, without delay, formal proposals of some sort.

SKINNER

¹ For previous correspondence concerning the funding of the Greek debt to the United States, see *Foreign Relations*, 1925, vol. 1, pp. 158 ff.

868.51 War Credits/447½ : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, February 1, 1927—6 p. m.

[Received February 1—3:50 p. m.]

4. My telegram No. 72, December 27, reporting suggestion from Minister of Foreign Affairs with respect to debt settlement. After a somewhat urgent private conversation, the Minister has sent me a written note requesting me to remind the Department of previous correspondence and to ask for an expression of the views of the Department. The Greek Government desires to learn whether American legislation regarding debt settlement with Greece is pending and also the expectations of the Treasury Department, as the Government is about to renew negotiations with the British Government, leading bank authorities having for that purpose gone to London.

SKINNER

868.51 War Credits/447 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, March 2, 1927—4 p. m.

[Received March 2—3:53 p. m.]

5. Department's 5, March 1, noon.² Foreign Minister proposed a loan from Government to Government. It was my personal suggestion that if a direct government loan were impracticable we might use our influence in financial circles to obtain a commercial loan for Greece provided Greece settled existing debt. I strongly recommend prompt counterproposal of some kind and hope way may be found whereby funds for urgent refugee settlement work can be provided. Efforts to obtain funds in London were thus far unavailing, London being determined apparently to refuse additional refugee loan until Greece consents to settlement for war materials as well as credits, total claim being in excess of amount this country feels able to pay or morally obligated to pay. If we could relieve present situation by government or commercial loan, repayment would be guaranteed as Foreign Minister has proposed, and our action would be justified both on humanitarian and economic grounds.

SKINNER

² Not printed.

868.51 War Credits/447½ : Telegram

The Acting Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *March 4, 1927—4 p. m.*

7. Your telegrams No. 4 of February 1, 6 p. m., and No. 5 of March 2, 4 p. m.

1. You may informally make a statement as follows if in the light of present conditions you consider it advisable:

The American Government would be glad to reach a suitable settlement with respect to the Greek debt and would welcome a proposal from the Greek Government to that end. If the Greek Government will initiate negotiations promptly for the funding of the debt, the American Government will not be disposed to insist upon the complete repayment of the debt within fifteen years from November 11, 1918, as was contemplated by the agreement of February 10, 1918.³ This Government would, on the contrary, be willing to consider an agreement for funding the debt by which the principal would be repaid within a sixty-two year period.

Should the Greek Government make an acceptable offer, this Government would in principle be disposed to offer no objection to the flotation by Greece in the American market of a commercial loan for productive uses, such as the settlement of refugees. Of course, it will be clearly understood that this Government cannot give any assurance that a loan can be procured in the United States, as the terms of such loans are matters for negotiation with the interested bankers.

2. If you wish, you may transmit a paraphrase of the above as an informal memorandum.

3. With respect to the inquiry from the Minister of Foreign Affairs mentioned in your telegram No. 4 of February 1, 6 p. m. you may reply that on February 9 the Debt Commission was terminated and that it made no recommendation as to a basis for settling the Greek debt; that Congress in the short session which ends on March 4 has not interested itself in this matter; and that, while for a definite agreement legislative approval would be necessary, as far as the attitude of this Government is concerned, satisfactory proposals for a settlement might open the market in the United States for a Greek commercial loan.

GREW

³ Printed in *Greek Debt Settlement: Hearings before the Committee on Ways and Means, House of Representatives, 70th Cong., 1st sess., on H. R. 10760* (Washington, Government Printing Office, 1928), p. 51.

868.51 War Credits/467 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, April 9, 1927—1 p. m.

[Received April 9—9:10 a. m.]

21. Instructions have been sent to Greek Minister at London to sign agreement for consolidation and payment of Greek debt, 62 years, first annuity 200,000 pounds.* I suggest that I be directed to inform Government that we expect no less consideration respecting our debt. British settlement carries with it implied promise of commercial loan.

SKINNER

868.51 War Credits/467 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, April 10, 1927—7 p. m.

16. Your telegram No. 21, April 9, 1 p. m. Inform Minister of Foreign Affairs immediately as follows:

1. The American Government expects Greece to show it no less consideration regarding debt settlement than has been shown to the British Government.

2. The American Government will not regard favorably any flotation in the United States of a loan for Greece until a settlement of the debt has been effected.

With respect to the second point you should inform the Minister of Foreign Affairs that Speyer & Co. have approached the Department concerning their participation with the Hambros Bank in a loan to the Greek Government of about 12,000,000 pounds, apparently in connection with the settlement of the Greek debt to Great Britain, and you should state that it is the intention of the Department to answer Speyer & Co. in conformity with point 2.

KELLOGG

868.51 War Credits/467 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, April 18, 1927—6 p. m.

17. Department desires brief telegraphic report as to reaction of Minister of Foreign Affairs to representations made on basis of our telegram No. 16, of April 9, 1 p. m. [April 10, 7 p. m.].

KELLOGG

*For agreement signed Apr. 9, 1927, see Great Britain, Cmd. 2848: *Greek War Debt, Agreement for the Settlement of the War Debt of Greece to Great Britain.*

868.51 War Credits/468½ : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, April 19, 1927—noon.

[Received 2:40 p. m.]

24. Your telegram No. 17, April 18, 6 p. m. Minister of Foreign Affairs said that Department's views would be given prompt consideration by the Cabinet. He appeared to be surprised and slightly embarrassed to learn that there had already been offered in America the loan which the British Government had agreed to support in return for the relinquishment by Greece of its claim for balance of credits. Action will be slightly delayed by temporary Cabinet crisis arising from resignation of Minister of Foreign Affairs, which he later withdrew, and by Easter holidays which are about to begin. Is the Department sure that Speyer & Co. will abide by its wishes that pending the settlement of our debt no Greek loan be floated in the United States?

SKINNER

868.51 War Credits/468½ : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, April 26, 1927—6 p. m.

20. Your telegram No. 24 of April 19, noon. The Department on April 22 gave the following reply to Speyer & Co.:

1. The Greek Government has made no proposal which would permit an early settlement of the Greek debt question.

2. Our Government cannot regard favorably any flotation in the United States of a loan for any government which has a debt to the American Government still unfunded.

KELLOGG

868.51 War Credits/472 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, May 14, 1927—noon.

[Received 2 p. m.]

33. On June 4 responsible ministers are to depart for Geneva to arrange details of another guaranteed loan which will probably be floated by Hambros Bank of London, the proceeds of the loan to be

used for refugee and budget balancing purposes. British permission to float this loan was withheld until Greece had concluded a debt settlement with Great Britain. The Department may wish to have me object to the pledging of any Greek resources until Greece has dealt no less fairly with the United States than with Great Britain, as article 4 of the 1918 agreement provides that until the advances made by Great Britain, France, and the United States have been repaid, no further Greek resources may be pledged without the assent of the Government of the United States. The silence of the Greek Government with reference to the settlement of the American debt continues although the newspapers report that the Greek Minister at Washington, who is now in Athens, is receiving instructions in the matter.

SKINNER

868.51 War Credits/470a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, May 18, 1927—5 p. m.

21. Your telegram No. 33, May 14, noon.

1. The Department does not wish to have you make representations as comprehensive as suggested in penultimate sentence of your telegram under reference.

2. If you think useful purpose would be served you should repeat point of view presented in first and second paragraphs of our telegram No. 7, March 4, 4 p. m. You should emphasize your remarks by making appropriate reference to paragraphs marked 1 and 2 of our telegram No. 16, April 10, 7 p. m.

KELLOGG

868.51 War Credits/475 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, June 7, 1927—noon.

[Received 12:56 p. m.]

38. Have received note from Minister of Foreign Affairs in which he states that his Government believes itself rightfully entitled to demand complete application of 1918 contract, and that in making an agreement with Great Britain by which Greece relinquished claim to balance of 1918 credits the Greek Government never had the impression that a situation was being created which could be considered

as having any effect upon its American interests. The note in closing declares that the Greek Minister to the United States will be instructed to resume discussions and that the Greek Government is ready to propose arbitration should insurmountable difficulties arise.

SKINNER

868.51 War Credits/476

The Minister in Greece (Skinner) to the Secretary of State

No. 219

ATHENS, June 9, 1927.

[Received June 22.]

SIR: With reference to my telegram No. 38 of June 7, 1927, quoting the substance of a Memorandum from the Ministry of Foreign Affairs on the subject of the Greek debt to the United States, I have now the honor to transmit the following complete text thereof (in translation):

"The Minister of Foreign Affairs, following Mr. Skinner's observations to him, concerning the renewal of *pourparlers* on the financial questions between the two governments, hastened to enter into contact with the Minister of Finance, in order to be able, by common agreement, to meet the wishes of the Government of the United States.

"After a careful examination of the question Mr. Michalakopoulos informs Mr. Skinner that the Government of the Republic has at all times declared its willingness to recognize its obligations arising out of the agreement of February 10, 1918, and one of the best proofs of this has been the payment of interest upon the sums advanced by the United States of America.

"If later these payments were interrupted, this was due in large part to the non-realization of the anticipated credits and the depreciation of the national currency which followed as a consequence.

"The Greek Government considers that it is legally entitled to demand the integral application of the agreement of February 10, 1918. Moreover, it would be happy if the Government of the United States advanced propositions to this effect.

"The agreement of 1918, in addition to the obligations foreseen therein on the part of Greece, set out also certain rights in her favor and the Hellenic Government is of the opinion that all of the questions arising out of this agreement form a whole and should be examined simultaneously.

"It is on the above principle that the Greek Government based its negotiations with England. As to England, the Greek Government found itself in a special situation due to an agreement reached between England and the Gounaris Government which, resulting as it did from regular elections, represented the opinion of the Greek people.

"The Government of the Republic, while contesting that there was a valid renunciation of the balance of the credits on the part of the then existing Government could not fail, nevertheless, to take into consideration the situation actually created as a consequence of that agreement.

"Mr. Michalakopoulos wishes to point out that in concluding the recent agreement with England, under the circumstances already described, the Greek Government never had the impression that it was creating a state of affairs which could be considered as affecting American interests.

"On the other hand, he cannot lose from sight the obligations which rest upon the Government of to-day and its responsibility before the Chamber if it renounced a portion of the clauses contained in the agreement concluded with the United States in 1918, from the moment that the non-recognition by the United States of America of the Governments resulting from the elections of November 1, 1920, had rendered all negotiations impossible.

"Mr. Michalakopoulos expresses his appreciation of the desire of the Government of the United States of America to reach a settlement of the question as well as of the assistance to this end which Mr. Skinner has kindly offered, and informs him that the Minister of Greece at Washington, being on the point now of rejoining his post, will receive instructions to renew the *pourparlers*.

"He expresses also the firm hope that the Government of the United States of America will consider with benevolence and with the spirit of high justice which characterizes it the ensemble of the question as well as the actual difficulties against which Greece is now struggling.

"In terminating, Mr. Michalakopoulos declares to Mr. Skinner that in order to give one more proof of the real desire of the Government to come to a settlement of this matter, it would be ready to propose an arbitration in the improbable case that the negotiations should encounter unsurmountable difficulties."

Athens, June 3, 1927."

The foregoing Memorandum assumes the form of an *Aide-Memoire*, prepared by Mr. Michalakopoulos on the eve of his departure for Geneva, and was given to me by the Prime Minister. It will be observed that the Hellenic Government admits the renunciation of the balance of credits from Great Britain, and does not propose to extend the same consideration to the Government of the United States. On the contrary, the Government of the United States is expected even now to advance the full amount of the credits claimed. As to the French Government, I believe that it has made no advances under the contract, nor does the Hellenic Government propose at this late date even to ask for any.

I have [etc.]

ROBERT P. SKINNER

868.51 War Credits/478½

Memorandum by the Chief of the Division of Near Eastern Affairs (Shaw) of a Conversation Between the Secretary of State and the Greek Minister (Simopoulos)

[WASHINGTON,] July 18, 1927.

The Greek Minister said that he had been instructed to take up with this Government the question of our making further advances

under the 1918 Loan Agreement and to express the hope that we would recognize the justice of the Greek point of view with reference to these advances.

The Secretary at once referred to the recent financial settlement between Greece and Great Britain and gave the Minister to understand that we expected no less favorable terms than those accorded to Great Britain. To this the Minister replied that Great Britain had already advanced, under the 1918 Agreement, more than twice as much as the United States. The correctness of this statement was acknowledged, but it was suggested to the Minister that the principle involved was not affected. The Secretary stated emphatically that the principle upon which the British-Greek settlement had been effected was a factor which could not be disregarded in any discussions we might now have on the subject of the 1918 Agreement.

The Minister asked whether the Secretary would have any objection to his discussing the matter with Mr. Mills, Acting Secretary of the Treasury. The Secretary replied that he thought it more appropriate that any proposals which the Minister might have should be presented to him. The Minister said that of course he would comply with the Secretary's desires in this respect. The Secretary declared that we would gladly consider any proposals which the Minister might make other than a proposal involving the granting of additional advances of money. . . .

G. HOWLAND SHAW

868.51 War Credits/478j

*The Acting Secretary of the Treasury (Mills) to the Secretary
of State*

WASHINGTON, August 10, 1927.

MY DEAR MR. SECRETARY: I had an informal talk with the Greek Minister in Newport during my weekend visit. While insisting on the validity of the claim of the Greek Government for an additional loan up to the full amount of the credits granted under the terms of the 1918 agreement, the Greek Minister, speaking as an individual rather than in his official capacity, agreed that there was little prospect of a settlement if discussions were resumed on the basis of the legal contentions set forth in the briefs embodying the positions taken respectively by the United States and Greek Governments when the matter was before the Debt Commission last year. He concurred in the suggestion which I made that as a practical proposition we should lay aside the past history and consider the problem from the standpoint of the present situation, in which the United States Government desires the Greek Government to recognize and fund a debt of

some \$18,000,000, while the Greek Government desires to obtain an additional loan. I suggested to him that the first question that should be answered was the extent of the foreign credits actually needed by Greece at the present time, taking into consideration the fact that Greece expects to float a loan of nine million sterling in London in October. I told him that if he would ascertain this figure and if Greece would settle her debt to our Government, the opening of the American market would facilitate the obtaining of the additional amount as well as make it possible to obtain the nine million pounds in the London market on more favorable terms. He readily agreed that the actual amount needed by the Greek Government was a very pertinent question, and he said he would obtain the figure, but insisted that the new money to be obtained in this country should be loaned by the United States Government, rather than borrowed in the open market, his reason being, of course, that the money could be obtained more cheaply from the Government than from private investors. In answer I stated that we saw no reason why we should receive less favorable treatment than Great Britain. He then stated that he thought that the British agreement would furnish a basis for the settlement of their debt to us, but that we could not expect to obtain all of the favorable elements without at the same time accepting some of the unfavorable ones. He stated that what he meant by this was that he thought we should loan an amount equal to that loaned by the Government of Great Britain under the 1918 agreement, that is, some 6,250,000 pounds. He stated that he made this suggestion as an individual and that he expected that he would have some difficulty in persuading his Government to accept it but he asked me to think it over as a basis for settling the question.

This would mean an additional loan of approximately \$12,000,000, the \$30,000,000 to be funded at a low interest rate and paid over a period of sixty-two years. If any new money is to be advanced by our Government, and I assume that some will have to be if we are to reach an agreement, this proposition does not seem to me to be an unreasonable one. In any event, it is something definite which the President, yourself and Mr. Mellon can consider in September. The amount of new money to be loaned can probably be reduced in the course of further negotiations, but I want to suggest that following the lines of the British agreement offers some very positive advantages; whereas the additional loan of an arbitrary amount would be conceding the validity of the Greek claim without adequate explanation for scaling it down.

Very sincerely yours,

OGDEN L. MILLS

868.51 P 92/- : Telegram

The Chargé in Greece (Goold) to the Secretary of State

ATHENS, August 25, 1927—11 a. m.

[Received August 25—9:25 a. m.]

54. The Chase Securities Company and Blair and Company have offered to finance Messrs. Prezanis and Kapsambolis, Greek engineers, in construction and maintenance of the Greek national road system. The amount involved is about thirty million dollars. The Government is seriously considering the bid of the engineers mentioned against whom are bidding others backed by the Asiatic Petroleum Company (Shell). A bond issue will probably be necessary. Is your policy with reference to Greek authorities issues [*sic*] still as outlined in your number 20, of April 26, 6 p. m.? A reply tomorrow morning would be appreciated, as the Greek Ministers interested are departing for Geneva during the afternoon.

GOOLD

868.51 P 92/- : Telegram

The Acting Secretary of State to the Chargé in Greece (Goold)

WASHINGTON, August 25, 1927—3 p. m.

28. Your 54, August 25, 11 a. m. The policy outlined in Department's telegram No. 20, April 26, 6 p. m., remains unchanged. This Government cannot favor the flotation of any loan on the American market for the benefit of a government which has not funded its American debt.

CASTLE

868.51/1032 : Telegram

The Consul General at Paris (Gaulin) to the Secretary of State

PARIS, September 12, 1927—2 p. m.

[Received 2:22 p. m.]

From Skinner: National City Bank is now considering participation in proposed loan to Greece. Having requested my opinion through Paris office, I have stated confidentially that the Department is unfavorable to American participation pending adjustment of American claim. The loan is being arranged at Geneva, where Foreign and Finance Ministers are now stopping. In case Department has any suggestions to lay before them while loan is in present formative state I could easily see them at Geneva.

GAULIN

868.51/1032 : Telegram

The Secretary of State to the Consul General at Paris (Gaulin)

WASHINGTON September 13, 1927—5 p. m.

Your September 12, 2 p. m.

For Skinner: Your statement to National City Bank is entirely approved. This Government, as you are aware, is opposed to the flotation of any loan for Greece on the American market until a debt settlement has been effected.

The Department is not in favor of your proceeding to Geneva for the purposes mentioned in your telegram.

KELLOGG

868.51 War Credits/479a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, October 20, 1927—7 p. m.

34. As result of conversation yesterday between representatives of State and Treasury Departments and Greek Minister, possible settlement of Greek debt question is being considered on terms outlined below:

1. Funding of present Greek debt under 1918 agreement with interest to date on same basis as recent settlement of Greek debt to Great Britain.

2. The American Government to loan enough additional money to make the total American loan equal in amount to the money loaned by Great Britain under the 1918 agreement. Under this arrangement the minimum amount of the new loan would be \$12,000,000, which would be made payable at a favorable interest rate in 15 years; the amount of the loan under the auspices of the League of Nations to be reduced by a sum equal to the new American loan to Greece; the new American loan to have the benefit of the guaranties which apply to the League of Nations loan.

The Greek Minister offered the objection that 15 years was too short a term for the new loan. It was agreed to postpone further consideration of this point pending a careful investigation of the Greek financial situation and of the ability of Greece to repay in 15 years, the margin which should be left to allow for Greek productive economic expansion to be taken into consideration. The Greek Minister undertakes to supply as early as possible reports made to and by the Finance Commission of the League of Nations in connection with consideration of the loan under League auspices.

It was agreed to avoid any premature publicity concerning these conversations.

It is understood that a new loan can only be made by authority of Congress.

KELLOGG

868.51 War Credits/479z

The Greek Legation to the Department of State

In order that the capacity for payment be fully appreciated, it must be borne in mind that Greece has been at war continuously since September 1912 until April 1923. This war resulted in an internal disturbance which aggravated the economic situation of the country. The war expenditures and refugee needs are estimated by experts at 63,400,000,000 pounds Sterling, from which only 26,000,000 will be covered through external loans, and the balance from Greece's own resources. As a result of the defeat in Asia Minor, the war material was entirely destroyed and the replacement strictly imposed for the elementary defense of the country has cost more than 3,400,000,000 Drachmas. And despite the compulsory consolidation of the interest bearing notes by the Dictatorial Government, there remains still a floating debt for the payment of the most urgent part of which the League of Nations has considered as indispensable the sum of 3,000,000 pounds.

The deficit of the year 1927-1928 estimated on the basis of the results of the financial exercise of the previous year and the additional obligations, has been figured at 2,600,000,000 Drachmas. Superhuman efforts are being made in order to cover this deficit and create a steady balance, through the realization of economies, mainly in the expenditures in the War and Navy Departments and through the increase of the existing taxes. The taxation burdens, however, have attained such large proportions that they have exceeded the resistance of the people as is evidenced from the decrease noted in the tax revenues. In fact, despite, the heavy new taxation, the revenues of the first semester amounted to 3,645,000,000 Drachmas, against the estimated revenues of 8,829,000,000; that is, a deficit of revenues for the first semester of 770,000,000 and for the whole year of 1,540,000,000. This deficit must be reduced by superhuman efforts in order to improve the revenues of the second semester. However, it is evident that the resistance of the people is exhausted and that any further increase of taxes is excluded since the results are directly the opposite of those anticipated.

Upon the new exercise will be imposed additional expenditures pertaining mainly to the public debt of 634,000,000 Drachmas, of which 258,000,000 will be used for the loan to be contracted for the settlement of refugees and the consolidation of 138,000,000 Drachmas for the public Ottoman Debt; 91,500,000 for the assistance of the State railways; relative to the service of the loans contracted during the Dictatorship; 30,000,000 for the loan relative to the fulfillment of the Greco-Bulgarian agreement on the exchange of populations; 32,000,000 for the loan relative to the indemnities to be paid to those who abandoned their properties in Turkey and 50,000,000 for increasing the amount

already used for the payment of the debt to the National Bank of Greece.

The above figures do not include the new burdens which will have to be carried as a result of the debt settlement with the United States and France.

It is quite clear that since any new imposition of taxes is excluded, the only remaining means to increase the revenues is the reinforcement of the national economy, through the full settlement of the refugees and the development and construction of new productive works. For the full settlement of the refugees, it will be required according to the lowest estimate a sum of 5,000,000 pounds (which personally the Minister of Finance considers insufficient), part of which will be met by the loan of \$3,000,000 approved by the League of Nations.

It must be pointed out that since the arrival of the refugees despite the compulsory expropriation of all large properties, there is a shortage of tillable land which, to a certain extent, has lessened the desire for work by those refugees already established and furthermore seriously affected the establishment of the rural refugee population still remaining in the cities. Therefore, it is necessary to complete the net of roads and the draining and anti-flood works upon the completion of which Greece will be entitled to expect an improvement of the economical situation.

It can be easily understood that after so many hardships and following the national catastrophe which deprived Greece of Thrace and Asia Minor and caused, in addition to the loss of all war material, the death of 60,000 men and the influx of one and a half million refugees, the economic situation of Greece became precarious and the capacity for payment was reduced to the minimum. It is only due to the great frugality, the industrious character and vitality of the Greek people that the country withstood complete annihilation.

WASHINGTON, November 5, 1927.

868.51 Struma Valley/2a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, November 18, 1927—6 p. m.

37. Recently the Department has been urged in the interest of the Ulen project for constructing a sewer system for Athens and the Monks project for drainage in the Struma Valley to relax its present opposition to the flotation of Greek loans in the United States. The Department has affirmed its opposition but has orally informed the

interested parties that there is no objection to making arrangements short of consummating the financing. The Department, for instance, would not object to negotiations for a contract or even to the signing of a contract with the provision that financing is to take place after the debt settlement has been made.

KELLOGG

868.51 War Credits/480a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, November 26, 1927—11 a. m.

38. Department's telegram No. 34 of October 20, 7 p. m. Greek Minister in second meeting on afternoon of November 23 made proposal on lines stated below. The Minister has telegraphed this proposal to his Government.

1. New loan, the proceeds of which are to be used for refugee settlement; the amount to be \$12,167,074, with interest at 4 percent to run for a term of 20 years.

2. The League of Nations loan to be reduced by a sum equal to the new American loan; the new loan to have the benefit of the guaranties which apply to the League of Nations loan.

3. The \$15,000,000 already loaned by the United States to Greece under 1918 agreement with accrued interest to January 1, 1928 of \$4,659,836.07, a total of \$19,659,836.07, to be funded on same basis as the settlement with Great Britain (62 years); it being, however, agreed in principle that up to January 1, 1931, payments by Greece are to be nominal.

The Greek Minister proposed that in view of present French attitude which is causing a delay in carrying out of the League of Nations loan, service of the new loan by the United States should be assured temporarily by an American representative having necessary control over surplus of the International Financial Commission. The Greek Minister is being informed that this Government will give sympathetic consideration to this proposal but that he should supply information of a more detailed nature as to just how the plan would be carried out.

KELLOGG

868.51 War Credits/480b : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, November 30, 1927—6 p. m.

39. Department's telegrams No. 38 of November 26, 11 a. m., and No. 34 of October 20, 7 p. m. On November 28, Greek Minister informed us that his Government accepted the proposal described in

paragraphs 1, 2, and 3 of Department's telegram No. 38, but with the condition that we accept temporary assurance of loan service by American representative as described in final paragraph of the same telegram. We have accepted this condition with the understanding that the control by the American representative will at least be as effective as that exercised by the International Financial Commission and subject to final agreement on practical details.

The complete plan of debt settlement described in Department's telegram No. 38 has been presented to the Cabinet and at an informal meeting called by Secretary Mellon the views of former members of the World War Foreign Debt Commission have been ascertained. The Greek Minister has been informed that the Executive branch of our Government has approved the plan of settlement and that when duly put in writing and signed it will be presented to Congress.

No publicity is being given to the above for the present.

KELLOGG

868.51 War Credits/481

The Under Secretary of the Treasury (Mills) to the Secretary of State

WASHINGTON, December 6, 1927.

MY DEAR MR. SECRETARY: Enclosed is a copy of the statement issued yesterday by Secretary Mellon in connection with the proposed settlement of the indebtedness of the Greek Government to the United States.

Very truly yours,

OGDEN L. MILLS

[Enclosure]

*Statement Issued to the Press by the Secretary of the Treasury
(Mellon)*

[WASHINGTON,] December 5, 1927.

The Secretary of State and the Secretary of the Treasury have for some months past conducted conversations with the Greek Minister at Washington looking to the settlement of the indebtedness of the Greek Government to the Government of the United States, which as of January 1, 1928, will amount, principal and interest, to the sum of \$19,659,836.

The indebtedness arose by virtue of an agreement dated February 10, 1918, under the terms of which the Governments of the United States, Great Britain, and France agreed to advance to the Greek Government by equal shares not to exceed 750 million francs. The object of this agreement was to aid the Greek Government in procuring in Greece the credits required for the conduct of Greece's military operations against the Central Powers. Advances were to be subject to the approval of an Inter-Allied Financial Commission,

composed of one representative from each of the signatory Governments, and the use of the funds was to be controlled by this Commission and by a military Commission similarly established. The reports of the American Consul General at Athens, who represented the United States on this Commission, show that Greek expenditures under the agreement reached the total of 682,134,693.54 drachmae (the drachma being equivalent at par to the gold franc). There is no doubt but that Greece expended for war purposes under the 1918 agreement an amount largely in excess of the advances she has since received.

Upon the recommendation of the American delegate on the Financial Commission, credits to the amount of \$48,236,629.05 were established by the Treasury of the United States with the approval of President Wilson in favor of Greece from June 20, 1918, to July 31, 1919. The first actual advance was made by our Government to Greece on December 15, 1919, the second on January 16, 1920, and the third on September 24, 1920. All told, we actually advanced \$15,000,000.

The Greek Government has consistently contended that it was entitled to further advances up to the full amount of the credits established by the Treasury of the United States. On the other hand, the Government of the United States has taken the position that events which transpired subsequent to November, 1920, relieved it from making any further advances. This difference of opinion has heretofore prevented the reaching of an agreement for the settlement of the indebtedness of the Government of Greece to the United States.

In April, 1927, the British and Greek Governments reached an agreement for the settlement of the indebtedness of the Greek Government to the British Government which had arisen under the terms of the agreement of February 10, 1918, Great Britain having advanced approximately 6,540,000 pounds, or \$31,826,910. Under the terms of this settlement the obligation is to be discharged over a period of 62 years at a low rate of interest and all claims for further advances under the 1918 agreement were waived by the Greek Government.

In the recent conversations with the Greek Minister, the British debt settlement with Greece was taken as a basis, our position being that the United States Government was entitled to as favorable a settlement as that accorded to Great Britain. The Greek Government conceded the soundness of this contention, but pointed out that in order to enjoy as favorable a settlement as that accorded to Great Britain the United States Government should in fairness advance a sum as great as that advanced by Great Britain under the terms of the 1918 agreement. Great Britain having advanced the equivalent of approximately \$31,826,910, and the sum advanced by the United

States Government being \$15,000,000, which with interest to January 1, 1928, at 5 per cent amounts to \$19,659,836, the amount of new money to be advanced by our Government in order to reach the amount advanced by Great Britain is \$12,167,074.

It is proposed, therefore, to recommend that the Congress authorize the concluding of an agreement with the Greek Government on the following basis:

The \$15,000,000 of principal owed by the Greek Government with interest at $4\frac{1}{4}$ per cent up to the 15th of December, 1922, and on the amount then due interest at 3 per cent to January 1, 1928, to be funded over a period of 62 years on the basis of the Greco-British settlement, save that during the first three years the payments to be in reduced amounts.

The United States Government to advance \$12,167,000 to the Greek Government at 4 per cent, with sinking fund for retirement in 20 years; the Greek Government to forego all claims for further advances under the 1918 agreement.

The Greek Government will furnish as security for the new loan the revenues at present under the control of the International Financial Commission established by the law of February 26, 1898, in so far as the yield of these revenues is not required for the service of the loans having a prior charge upon the said revenues.

The loan is to enjoy the same securities and guarantees as the 9 million pound loan sanctioned by the Council of the League of Nations, as set forth in the protocol dated Geneva, September 8, 1927, and the service of this loan is to be administered and assured by the International Financial Commission. As of 1927, the excess of revenues at present under the control of the International Financial Commission over those required for the service of the loans having a prior charge amounts to approximately \$28,000,000, and therefore the service of the proposed \$12,167,000 loan will be amply secured.

Pending the assumption of control by the International Financial Commission, the Greek Government undertakes to assign the unpledged revenues to the American Minister at Athens as security for the service of the loan.

Recent events in the Near East have involved for Greece a very considerable displacement of population. The total number of refugees added to the population of Greece amounts to about one million and a half, or more than 20 per cent of the population. In 1923 there was organized by formal and official agreement a Refugee Settlement Commission, of which the Chairman, according to the organic articles, must always be an American citizen. Mr. Henry Morgenthau was the first Chairman; and Mr. Charles B. Eddy is now Chairman. The task of this Commission is to establish the refugees in productive work. In 1924 a loan of over \$59,000,000 was floated in

the world markets under the auspices of the League of Nations for the purposes of the Refugee Settlement Commission. Great progress has been made, but much remains to be done to complete this humanitarian work. The proceeds of the \$12,167,000 loan to be made by the United States Government to the Greek Government are to be applied in their entirety to the work of the Refugee Settlement Commission.

REPRESENTATIONS TO PROTECT AMERICAN INTERESTS FROM DISCRIMINATION IN CONCESSION TO BRITISH COMPANY FOR TRAMWAYS AND BUS LINES IN ATHENS

868.797/1 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, January 24, 1927—6 p. m.

1. Ford Motor Company states that the Greek Government has granted or is about to grant a concession for an absolute monopoly in favor of British built chassis for motor busses between Piraeus and Athens and on the streets of Athens to a British concern named "The Power Traction Finance Company Limited".

Investigate and telegraph your recommendations.

KELLOGG

868.797/2 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, January 25, 1927—3 p. m.

[Received January 25—2:30 p. m.]

2. Department's 1, January 24, 6 p. m. Government now considering ratification of contract which would give British concern monopoly of transportation in and about Athens, including free importation of motor vehicles, repair parts and spirit [*supplies?*]; and since concessionaires are supported by direct British Government loan under safeguarding of industries scheme, they must in return for such support buy British cars and supplies exclusively. On January 14 I objected to ratification of any contract which granted special privileges as to import duties on motor busses, et cetera, not equally granted to American vehicles and also to ratification of contract which Government had reason to know would prevent transportation monopoly from buying cars and supplies in any market. My recommendation is that Department approve my objections and instruct me to support formally open-door policy with respect to this or any similar Government contract. Matter directly affects Ford Company as over two hundred Ford busses are now in operation in Athens and business constantly increasing.

SKINNER

868.797/2 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, January 28, 1927—7 p. m.

2. Your No. 2, January 25, 3 p. m. Please telegraph whether contemplated concession constitutes simply exclusive franchise to operate motor bus system or whether it grants rights so comprehensive as, for instance, to exclude individual owners from operating motor taxi service.

KELLOGG

868.797/5 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, January 29, 1927—4 p. m.

[Received January 29—4:14 p. m.]

Department's 2, January 28, 7 p. m. Taxi cabs are not affected by concession. Contract seems to provide for freedom of competition on roads on which no tramway line is laid but renders this provision illusory by stating that during first three years of contract "no authority whatever shall be given to any person other than transport company for new omnibuses or replacement of existing omnibuses" for operation within radius of 20 kilometers of center of city. After three years independent buses may be operated in defined numbers. Article 6 relating to finance speaks of "loan guaranteed by British Treasury" and as no such loans are granted without corresponding guarantees that only British goods shall be bought, the effect of contract is that existing independent vehicles cannot be replaced during three years, can be operated only in insignificant numbers after three years and can be imported only on payment of duty while concessionaires are themselves prohibited from buying other than British cars and may import such cars, parts and operating supplies free of duty. Under these circumstances British concessionary company will certainly drive out all competition if contract is ratified.

SKINNER

868.797/5 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, February 2, 1927—6 p. m.

3. Department understands from your telegrams No. 2, January 25, 3 p. m., and January 29, 4 p. m., your despatch No. 45, January 12 and Consulate's report of January 13^{*} that proposed contract is for

^{*} Despatch and consulate's report not printed.

an exclusive franchise for tram-lines and bus-lines on certain specified routes. To this as well as to customs exemptions granted by contract the Department would not object. Should the contract, however, go further than this and in effect restrict freedom of competition to such a degree as to result in the virtual exclusion of American automotive products from a particular market, you should predicate upon such exclusion appropriate representations to the Greek Government pointing out that in granting the concession the Greek Government is in fact consenting to discrimination against American commerce. You may, in your discretion, state orally that such discrimination would be viewed with concern by your Government.

KELLOGG

568.797/8

The Minister in Greece (Skinner) to the Secretary of State

No. 119

ATHENS, March 22, 1927.

[Received April 7.]

SIR: Adverting to my despatch No. 45 of January 12^a and other correspondence concerning the franchise granted by the Greek Government to the Power and Traction Finance Company, Ltd., of London, I have the honor to report that following upon loud public clamor against the ratification of this concession, the British company sent an agent to Athens for the purpose of negotiating modifications calculated to soften public sentiment with reference to the contract. The negotiations have now finished and at a cabinet meeting the other day, General Metaxas announced the amendments that had been agreed upon.

From the point of view of American interests, the principal amendment was that by which the Company waived the privilege of importing free of duty gasoline, tires and accessories to be used in connection with the Company's buses. I believe it is fair to add that the representations which I made against this privilege were material in securing its elimination. On the other hand, nothing was introduced into the contract to assure the purchase by the Company of autobuses and accessories irrespective of their national origin. And since the British Treasury has guaranteed the bond issue to be emitted in connection with this contract, I take it that the greater portion of the purchases made by the Company will be made in the British market.

Amongst the other modifications introduced into the contract was that providing that the State will acquire the property in 30 years instead of 35. And since the Company will use a current having a force of 220 volts rather than a force of 110, as at present, it agrees

^a Not printed.

to replace at its own expense all wires, fuses, motors and equipment unable to carry the load of 220 volts. Instead of forcing motor cars for hire and taxis now in private ownership to cease their operations within three years from the making of the contract (October 17, 1928) they will now be permitted to circulate until the 31st of December 1930, and there will be no restrictions as to their operation on the streets where there are tramways until January 1929. At no time during the life of the contract will there be restrictions on the operation of private buses between Athens and Kiphissia except that the buses shall not be permitted to accept passengers for way stations served by the trams.

I believe that the Company has at least taken the first step for the creation of a more friendly atmosphere in which to work.

I have [etc.]

ROBERT P. SKINNER

REPRESENTATIONS TO THE GREEK GOVERNMENT REGARDING
PROPOSED INCREASE IN IMPORT DUTIES ON WHEAT AND FLOUR

668.003/120

The Minister in Greece (Skinner) to the Secretary of State

No. 75

ATHENS, February 11, 1927.

[Received March 4.]

SIR: I have the honor to report that a special commission of the Greek Chamber, consisting of 27 members, has been created to consider and decide upon the application or not of an increased import duty on flour. It seems that under the Pangalos Government a legislative decree was issued on October 7, 1926, substantially increasing the then prevailing duty on flour, but, following protests from merchants and consumers, the decree was abrogated almost immediately, leaving the duty where it had been before. It also appears to be the case that the domestic mills are capable of supplying only about 80% of the Greek requirements.

Immediately upon receipt of information that the matter was pending, and that the effect of a higher duty would be to demoralize, and perhaps prevent, any further American trade in flour in this country, I called upon the Foreign Minister and expressed the hope that he would use his influence to prevent the change now proposed from taking place. I pointed out to Mr. Michalakopoulos that in the present state of the Greek milling industry the application of a higher duty on flour would certainly be passed on to the Greek consumer without any obvious corresponding advantage. I pointed out that Greek millers already had the monopoly of the grinding of the entire Greek wheat crop, and would necessarily develop their

industry by the anticipated increase in the domestic crop due to extended acreage. I pointed out, also, that exportations of Greek tobacco, currants and carpets alone to the United States were many times more considerable than purchases of American natural commodities by Greece, and I therefore strongly urged upon him the importance of continuing the importation of flour on terms to which the trade is accustomed, in the interest of fair trade relations as well as in the interest of the Greek consuming public.

As the parliamentary commission examining this question is composed in part of Mr. Kommandaros, a miller, and Mr. Stringos, President of the Chamber of Commerce of Piræus, who are understood to be opposed to the comparatively low duty of recent years, there is a strong possibility that they may succeed in making their views prevail.

I shall acquaint the Department with any developments in this matter. The Minister for Foreign Affairs is in a position at this time only to accept my observations and to assure me that they will be given due and sympathetic weight.

I have [etc.]

ROBERT P. SKINNER

668.113C.P./2 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, March 4, 1927—5 p. m.

[Received 5:21 p. m.]

6. Bill introduced increasing rate of metallic drachma on imported wheat from five to eight and a half and on imported flour from six one quarter to fourteen, the higher rates of duty applicable from March 2 although bill not yet enacted. I am representing strongly to Government injustice of applying this extremely heavy increase without notice, especially as to flour afloat and [or?] on order, and hope to secure postponement of application new rates at least until chamber can act promptly upon pending measure.

SKINNER

668.113C.P./2 : Telegram

The Acting Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, March 4, 1927—5 p. m.

8. Emergency Fleet Corporation has been informed by operators of Shipping Board vessels that Greek Government has or is about to promulgate further restriction import regulations on flour. Please investigate and report by telegraph.

GREW

668.118C.P./3 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, March 5, 1927—7 p. m.

[Received March 5—4:13 p. m.]

7. Department's 4th. As cabled yesterday Government proposed to increase rate of metallic drachma from five to eight and a half as to wheat and from six one quarter to fourteen as to flour, these rates retroactive from March 2nd. Protests have resulted in withdrawal of rate as to goods already afloat or on order before March 1st but new duties stand as to future transactions unless withdrawn later owing to growing opposition or as result of refusal of chamber to accept Government's measure. I have represented to Government that America is now importing Greek products upon a large scale and in excess of our demands and shall keep the Department advised.

SKINNER

668.118C.P./6 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, March 8, 1927—5 p. m.

[Received 5:15 p. m.]

9. Continuing my telegram number 7, March 5, 7 p. m. on increased duties on wheat and flour. Text of Legislative proposals not yet available but apparently contemplate that hereafter all bread shall be produced from domestic flour of 80 and 95 percent wheat extraction, imported flour to be used exclusively for non-bread-making purposes. While no discrimination against United States is intended, and while importations of wheat will not be diminished, importations of flour will virtually cease. I recommend that Department support my opposition to measure, which is now operative as to wheat and flour ordered since March 1st, by such strong representations as may be deemed advisable.

SKINNER

668.118C.P./5 : Telegram

The Acting Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, March 10, 1927—6 p. m.

9. Your 9, March 8, 5 p. m. Department does not consider that it can formally oppose new regulations provided:

(1) That Greek Government has agreed not to apply increased duties to wheat and flour on order prior to announcement of new conversion rates;

(2) That most-favored-nation treatment is accorded American products.

You should insist upon conditions (1) and (2) and in your discretion you may again present considerations set forth in your No. 75 of February 11.

If Greek Government contemplates measures other than mere increase in conversion rates, please telegraph.

GREW

668.113C.P./7 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, March 11, 1927—5 p. m.

[Received March 11—4:48 p. m.]

10. Department's 9. Protests against higher rates on wheat and flour mentioned in my number 7 of March 5 have resulted in withdrawal of these rates as to flour afloat and on order prior to March 2 and instead application of increase from six and one quarter drachma to eight and a half. Wheat however is held liable in all cases to the new rate of eight and a half. I am now insisting on complete release from new duties both of wheat and flour as to goods afloat and on order before March 2d. While no discrimination against American products apparent, nevertheless the Legislative bill pending relative to foregoing also provides that on its passage no wheat may be imported of specific weight of less than 78 kilograms per hectoliter and containing more than 2 percentage of the foreign substances. Please inform me whether this prohibition would affect importations of American wheat and if so suggest appropriate representations.

SKINNER

668.113C.P./7 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, March 14, 1927—2 p. m.

10. Your No. 10, March 11, 5 p. m. According to information supplied by Department of Agriculture rigid enforcement of proposed legislation might exclude American wheat from Greek market as Greece buys mainly No. 2 grade winter wheat which in good crop years weighs approximately seventy-seven decimal thirty-seven kilograms to hectolitre and contains 2 percent dockage. You should bring this information to the attention of appropriate authorities and endeavor to secure modification of pending legislation so as to safeguard American wheat imports even in poor crop years when No. 2 winter wheat averages about seventy-five kilograms per hectolitre.

KELLOGG

668.118C.P./8 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, March 18, 1927—6 p. m.

[Received March 18—5:05 p. m.]

12. Department's instruction No. 10, March 14, 2 p. m., re pending wheat legislation. Foreign Minister today stated that bill prohibiting the importation of wheat of less than 78 specific weight was intended to affect importations from certain countries other than United States and he hoped to obtain amendment which would relieve bill of objections formulated by Department as there is no intention on the part of this Government to prevent arrivals of American wheat. I hope also to overcome obstacles to flour importations but Government apparently very desirous to build up domestic milling industry and may not yield.

SKINNER

GUATEMALA

GOOD OFFICES OF THE AMERICAN LEGATION IN BEHALF OF AMERICAN AND BRITISH CREDITORS OF THE GUATEMALAN GOVERNMENT

814.51/542

The Chargé in Guatemala (Ellis) to the Secretary of State

No. 1322

GUATEMALA, November 2, 1926.

[Received November 13.]

SIR: Referring to this Legation's Despatch No. 1320 of October 29, 1926,¹ relative to the obligations of the Government of Guatemala to foreign creditors, I have the honor to inform the Department that the British Minister, Mr. Archibald Clark Kerr, called at the Legation on October 30, 1926, and stated that inasmuch as he had learned that Mr. Henry B. Price, the Vice President of the International Railways of Central America, had arrived in Guatemala for the purpose of collecting the debt owed his company by the Government, and inasmuch as it appeared that Mr. Price might meet with success in this matter, he wished to inquire whether there would be any objection to his cabling the British Foreign Office suggesting that the Department of State be requested to instruct this Legation to urge upon President Chacón the importance of arranging the amortization of the deferred coupons of the British bonds. Mr. Clark Kerr observed that, inasmuch as a failure to meet her obligations in respect to a debt dating from 1827 renders Guatemala a defaulting nation, he felt that the United States would wish to see this matter settled prior to the issuance of any new bonds by the Government.

I replied to the British Minister that I perceived of no reason why he should not request such action of his Foreign Office, but that without instructions from the Department, I should not be in position to assist him, even informally, in presenting his views to Guatemalan officials.

A memorandum prepared by the British Legation, a copy of which is transmitted herewith, gives a history of the British claim in outline form.

I have [etc.]

LEON H. ELLIS

¹ Not printed.

[Enclosure]

Memorandum Prepared by the British Legation in Guatemala on the Four Percent External Debt of Guatemala

1. The origin of the Debt dates from 1827, when Guatemala took over $\frac{5}{12}$ (£67,900,-) of the Six per cent Loan issued in London on behalf of the Central American Federation.

2. The loan was in default from 1828 to 1855.

3. An arrangement was made in 1856 whereby the capital and the arrears of interest were reduced to £100,000 bearing 5% interest. As a security 50% of the Customs Dues was hypothecated.

4. In 1863 a loan for £11,300 bearing 5% interest was contracted for public improvements. This loan went into default in February 1864.

5. In 1869 a loan for £500,000 bearing interest at 6% with an accumulative Sinking Fund of 3% was issued. The import duties were assigned as a security for this Loan.

6. In 1876, the loans of 1856 and 1869 went into default.

7. In 1878, one-third of the coupon due 1st April, 1876, on the 1869 loan was paid in November; no payment being made on the subsequent coupons.

8. The default continued until 1888 when the following arrangement was made:

The Bondholders accepted in lieu of each £100 Bond of the 1856 Loan with £62.1.8d. interest arrears, a new Four Per Cent bond of £144.14.0 and in lieu of each £100 Bond of the 1869 Loan, with £72.10.9d. interest arrears on a new Four per Cent Bond of £152.4.0.

The total amount of new bonds issued was £922,700.

The Internal Debt was converted upon similar conditions at the rate of £16. per \$100.—The interest was payable quarterly at the annual rate of 6%. The bonds were issued in Guatemala and were introduced upon the London market in 1888. The total introduced was \$6,400,000.—£1,024,000.

The 1863 loan was included in the conversion, £144.14.0. in new Bonds being given for each old bond and interest arrears amounting to £119.11.8.

9. In 1894, default took place upon both the External and the Internal Consolidated Debts.

10. In 1895 a new arrangement was accepted by the Bondholders on the following bases:

Unification of the External Debt (amount outstanding £890,300) and in internal Debt (amount outstanding \$6,025,900—£964,144) into a new Four per cent External Debt for £1,600,000. The External Bonds, with arrears of interest from 1st of January 1894 to the 30th of June 1895, to be converted at the rate of £75. New for £100 Old Bonds. The Internal Bonds, with arrears of interest for the same

period, to be converted at the rate of £75. New for each \$500.-or £80.-Old Bonds.

A non-accumulative Sinking Fund of £15,000 per annum was created to be applied by purchases on the market.

The Bonds were secured by a special tax of \$1 ½ gold (six shillings) per quintal of coffee exported, fixed irrevocable at this rate for 10 years, commencing 1st. July 1895, the proceeds to be paid to the Agent of the Bondholders at Guatemala.

11. The Guatemalan Government violated this contract the same year (1895).

12. In 1898 a new arrangement was concluded for three years reducing the interest rate to 2% in cash and 2% in certificates; full cash payment to be resumed on the coupon falling due 31st of December, 1901. The certificates to be exchanged for Four per Cent Bonds after the 30th of June 1901. Amortization to be suspended for three years and to be reduced from 1901 to 1908 to £6000. a year and thereafter to be fixed at the full rate of £15,000 per annum.

13. The Debt went into default in 1899.

14. From 1899 to 1913, several arrangements were concluded with the Bondholders, but the Guatemalan Government failed to ratify them. In the meantime the Guatemalan Government assigned the revenue pledged to the Bondholders to secure other obligations.

15. In 1913, through the good offices of His Majesty's Legation, an agreement for the resumption of the operation of the Arrangement of 1895 was effected on the following terms:

1. The Government to deliver to the representative of the Bondholders by the 1st July, 1913, Warrants for the payment of the Coffee Export Duties sufficient to cover the interest due for the year 1913-14; no other Warrants to be admitted in payment of the said duties until those intended for the service of the Debt have been cashed;

2. In exchange for the Certificates issued under the Arrangement of 1898, the Government to issue £29,656 new Bonds of the Four per Cent External Debt, with Coupons from 31st. December, 1901, inclusive, attached;

3. In exchange for the overdue Coupons unpaid up to 30th June, 1913, the Government to issue Deferred Certificates for an equal amount, bearing no interest;

4. The sinking fund of £15,000 per annum to be suspended for four years from 1st July, 1913;

5. Upon the termination of these four years the Council of Foreign Bondholders to treat with the Government as to the means of amortizing the Deferred Certificates referred to in (3).

16. The obligation of the Government under the above Agreement to resume the Sinking Fund was not fulfilled until October 1919, when the Guatemalan Government paid the two years in arrears.

17. The stipulation regarding the settlement of the arrears of interest has not yet been carried into effect.

18. The war conditions of 1917, which reduced the revenue, and the losses sustained by the earthquakes of 1917 and 1918 were the reasons given by the Guatemalan Government for their failure to fulfil the stipulation.

19. Later on political disturbances and the urgent necessity to effect the stabilization of the currency were the grounds on which the Guatemalan Government based their refusal to open negotiations with the Bondholders for a settlement of the outstanding question.

20. In 1925, the Council of Foreign Bondholders urged the Guatemalan Government to discuss the matter, to which the Minister of Finance assented.

21. Mr. J. P. Armstrong was appointed special representative of the Council of Foreign Bondholders for this purpose.

22. The proposals of the Bondholders are as follows:

1. The total amount outstanding to be funded immediately into Bearer Bonds of £100. each with interest coupons at 4% payable in 30 years.

2. If the Government are unable to remit more than the interest at present (£34,000.) the Sinking Fund should be deferred for three years, in which case the annuity would be increased from 2% to 2½%.

3. The new Bonds shall be formally guaranteed by the \$1.- of the Coffee Export Duties assigned for the service of the existing bonds.

23. The arrears of interest amount to £844,603.

814.51/542

The Secretary of State to the Minister in Guatemala (Geissler)

No. 957

WASHINGTON, November 29, 1926.

SIR: The Department has received the Legation's despatch No. 1322 of November 2, 1926, reporting a conversation between the Chargé d'Affaires and the British Minister with regard to the collection of the British debt. In reply you are informed that Mr. Ellis' statement to the British Minister that without instructions from the Department Mr. Ellis would not be in a position to assist Mr. Clark Kerr is approved.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

814.51/549

The British Ambassador (Howard) to the Secretary of State

No. 820

WASHINGTON, December 27, 1926.

SIR: I have the honour, on instructions from His Majesty's Government, to draw your attention to negotiations which are now proceeding

in Guatemala City between Mr. J. P. Armstrong, representative of the Council of Foreign Bondholders in London, and the Guatemalan Government with reference to the amortization of the arrear interest coupons on the four per cent External Debt of Guatemala.

The progress of the discussions on this subject which were initiated as far back as July last has been somewhat delayed owing to the political situation arising out of the death of President Orellana and the temporary assumption of office by General Chacon, which rendered the Guatemalan Government reluctant to consider the question until after the presidential elections.

The elections having now confirmed General Chacon in the Presidency the present moment is regarded as an opportune one for the resumption of negotiations—the success of which it is felt would be greatly promoted were the United States Representative at Guatemala City to lend to His Majesty's Representative at that capital, and to the representative of the Council of Foreign Bondholders, the same general friendly support as His Majesty's Representative in Tegucigalpa received from his United States colleague in his recent negotiations with the Honduran Government for the funding of the external debt of that country.²

In notifying you of these pending negotiations, I accordingly have the honour to enquire whether the United States Government would be prepared to instruct the United States Minister at Guatemala City to use his good offices with a view to promoting an understanding between the Guatemalan Government and the representative of the Council of Foreign Bondholders.

I have [etc.]

ESME HOWARD

314.51/571 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, April 8, 1927—3 p. m.

22. Department's 5, January 24, 6 p. m., your despatch 1401, January 27.³

Following reply has been made to British Ambassador's request for good offices:⁴

"While the Government of the United States cannot undertake to advise the Guatemalan Government regarding its action with respect to the specific proposal understood to have been made by the bondholders, I am instructing the American Minister to assist in any proper way in arriving at a satisfactory adjustment of the matter, and to inform the Guatemalan Government that the Government of the United States would be glad to see a suitable settlement in the interest of both parties."

² *Foreign Relations*, 1925, vol. II, pp. 338 ff.

³ Neither printed.

⁴ The note to the British Ambassador was dated Apr. 11, 1927; not printed.

[Paraphrase.] In carrying out this instruction you should be very careful to make no formal representations. You should restrict yourself to indicating orally the manifest advantages to the Government of Guatemala which would accrue from a settlement of the Guatemalan debt question. You should be particularly careful not to give the impression that the Government of the United States is intervening in any way in this controversy or that it is trying to bring any pressure on the Government of Guatemala.

In view of the terms of the 1913 agreement,⁵ the Department would not be inclined to support the pending proposals of the bondholders. The Department is mailing to you for your information a detailed history and analysis of the matter which was prepared in the Department.⁶ [End paraphrase.]

KELLOGG

814.51/578

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1472

GUATEMALA, April 21, 1927.

[Received May 2.]

SIR: I have the honor to report, that, pursuant to the Department's cablegram 22 of April 8, 3 p. m., I have indicated to British Minister Clark Kerr and to Mr. J. P. Armstrong, representative of the bondholders, that I shall be glad to assist in any proper way in arriving at a satisfactory adjustment of the matter of the deferred coupons of the so-called British Debt, pending between the bondholders and the Government of Guatemala, and that they expressed appreciation, and said, that, after, about thirty days hence, the Legislative Assembly will have adjourned and perhaps a decision reached as to whether Mr. Baudilio Palma is to remain as Secretary of the Treasury or somebody else be appointed in his place, they will press for action, and that then, if satisfactory results are not soon obtained, they will request me to convey to the Government of Guatemala the view of the Department of State, as set out in its communication to the British Ambassador in Washington, to the effect that the United States would be glad to see a suitable settlement in the interest of both parties.

During a conversation I had with those gentlemen, at this Legation, on April 20, I showed Mr. Clark Kerr a transcription of the Department's reply to the British Ambassador, as quoted in the above-cited cablegram of April 8, 3 p. m., and, at his request, I gave him a copy thereof.

Mr. Armstrong said, that the present status of the matter is, that there is pending the proposal of the bondholders, that the Govern-

⁵ *Foreign Relations*, 1913, p. 571.

⁶ Not printed.

ment refund the certificates through the issuance of four percent bonds payable within thirty years; that it seems, that neither the Secretary for Foreign Affairs nor the Secretary of the Treasury has studied the problem; that, furthermore, those officials are afraid of opposition by the Legislative Assembly; that, however, he believes, that when that body has adjourned, it should be possible to effect an agreement, substantially on the abovementioned basis. Mr. Kerr indicated, that he shares that view. I expressed no opinion concerning those proposed terms, nor as to the degree of possibility of their being accepted. It did not seem opportune to do so. However, if I understand correctly the attitude of Guatemalan public men, as expressed from time to time in unofficial conversations concerning the subject, they will not consider a proposal on that basis seriously.

I suggested to the British Minister and Mr. Armstrong, that it would be best not to let it become known that the Legation is disposed to aid in the matter of arriving at an adjustment, unless and until they find it desirable for me to speak to the Secretary for Foreign Affairs.

I have [etc.]

ARTHUR H. GEISSLER

814.51/581

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1479

GUATEMALA, April 29, 1927.

[Received May 9.]

SIR: I have the honor to submit the following report, concerning negotiations between the International Railways of Central America and the Government of Guatemala, for the settlement of the Government's debt to that Company.

On April 23, Mr. Fred W. Wilson, special representative of the International Railways of Central America, called at the Legation and told me, that, as a result of extensive negotiations, Mr. Henry B. Price, Vice President of the company, and himself had seemingly almost arrived at an agreement with the Government of Guatemala for the settlement and payment of claims of the Company against the Government, but that, on April 22, definite action was postponed, with the rate of interest and the price of the bonds to be taken in payment of the debt remaining apparently as the only important points of difference.

Mr. Wilson expressed regret, that the settlement had not yet been completed, and said that he hoped, that a way might still be found to effect a settlement in time for its being ratified by the Assembly at its present session. He called again on April 26; and, on April 27, he presented a letter and a memorandum, copies of which are transmitted herewith.*

* Not printed.

It will be observed, that the memorandum contains the tentative basis of the settlement as developed in the negotiations between the parties.

In view of the request made by Mr. Wilson, in his letter, that, informally and unofficially, I do something calculated to facilitate early action, I mentioned the matter to Secretary for Foreign Affairs Matos on April 27.

In my conversation with Dr. Matos, I asked what news he had concerning pending political or legislative matters. He remarked, that the contract of the United Fruit Company seems now to have been gotten into such shape that it will probably be approved by the Assembly tomorrow. Then he said, that the Government is desirous of getting all pending matters with American companies adjusted as soon as possible, and that the negotiations with the International Railways have progressed to a point where there is almost agreement. I inquired for details. He said that, in effect, the only questions of importance to be decided, are, whether the bonds to be issued are to draw 6% or 8%, whether they are to be given to the company at eighty-five or ninety and whether they are to be secured by a lien on the 3% consular invoice tax now assigned for the support of the Foreign Office or on only $\frac{2}{3}$ of that amount. He said, that Secretary of the Treasury Palma also had the desire that, instead of a lien being given on the tax just mentioned, the International Railways acquire the outstanding so-called A. E. G. or Los Altos Bonds, in the sum of \$1,500,000.00 of an original total issue of \$3,000,000.00, and then let the 3% consular invoice tax covering those bonds also secure the new bonds in the sum of approximately three million dollars which are to be issued to the International Railways.

Then Dr. Matos made mention of having received a communication from the British Minister, which he considers amounts almost to a protest against a settlement with the International Railways before an agreement with the holders of the British Deferred Coupons is made. I said to the Secretary for Foreign Affairs, that I was not there to make any official representations concerning the railroad debt or concerning the British deferred coupons; that, however, it appeared to me, speaking personally, that it would be desirable for the Government to make, at the earliest practicable date, a mutually satisfactory arrangement with the holders of the British deferred coupons, but that I know of no reason why the holders of the coupons should have a right to object to a settlement being made previously with the railroad company, if such action happened to suit the convenience of the Government. Since then, I have secured a copy of the British Minister's note, which I shall submit with another despatch.^a

^a Not printed.

Later, on the same day, Dr. Matos told me, that he had, since talking with me, mentioned the subject of the railway debt to President Chacón, who had told him, that he desires to have that matter settled as soon as Mr. Price returns from New York and reports the company's decision as to the Government's offer of 6% bonds at 90. From my conversation with Dr. Matos I received the distinct impression, that he does not anticipate that the company will be willing to accept bonds drawing less than 8%.

On April 29, Mr. Wilson called and told me, that he had, on the previous day, had a conversation with Secretary of the Treasury Palma, who had proposed to him, that the International Railways undertake to float a \$10,000,000.00 loan, the proceeds of which, at a price of say 90, would be disposed of as follows:—

| | |
|---|-------------------|
| International Railways about | \$2, 560, 000. 00 |
| Los Altos Bonds outstanding | 1, 500, 000. 00 |
| Refund to Treasury for Los Altos Advances | 1, 500, 000. 00 |
| For Completion of Los Altos Railway | 2, 000, 000. 00 |
| The balance to be available for other purposes. | |

Mr. Wilson said, that he thinks, that his company will prefer to arrange for a settlement of its debt first, although it may then be disposed to aid in the floating of any further loan which the Government of Guatemala might desire.

I have [etc.]

ARTHUR H. GEISSLER

814.51/580

The Chief of the Division of Latin American Affairs (Morgan) to the Assistant Secretary of State (White)

[WASHINGTON,] May 4, 1927.

Call of Mr. Pruyn and Mr. Woolsey, representing the International Railways of Central America

Mr. Pruyn said that negotiations had been reopened in Guatemala between Mr. Price, representing the International Railways, and the Guatemalan Government looking to a settlement of the claim of the International Railways against the Government of Guatemala which now amounts to about \$2,500,000. The plan contemplates the issue by the Guatemalan Government of bonds to the amount of the claim. These bonds would probably be 7% bonds at 85, with a one per cent sinking fund. However, the details had not been worked out and would be negotiated by Mr. Price. Mr. Pruyn said the Guatemalan Congress was now in session, the Government seemed to be willing to effect a settlement and the International Railways felt this was the psychological time to try and push the matter through. It was hoped Mr. Price would sign the agreement within a week or two. Mr. Pruyn said it would be a great help to the International Railways if Mr.

Geissler could be instructed by the Department to use his informal good offices to help bring about a settlement. I told Mr. Pruyn that in advance of detailed information as to the terms of the settlement I doubted whether the Department could instruct Mr. Geissler to take any action. Mr. Pruyn pointed out that the details were just what remained to be arranged and all that they asked for was Mr. Geissler's help to bring about a settlement which would be satisfactory to both parties. I said I would consult others in the Department and see what, if anything, we could do.

Mr. Woolsey said that he was particularly anxious to have some instructions reach Mr. Geissler, as the latter while very friendly to the International Railways and approving in general of the claim, had shown himself quite properly very loath to take even the most informal action in their behalf without specific instructions.

As the claim of the International Railways against the Government of Guatemala is of great importance and long standing, and has in principle the support of the Department, I see no objection to sending the attached telegram if you concur.⁹

MORGAN

814.51/580 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, May 7, 1927—6 p. m.

25. The Department is advised that negotiations looking to a settlement of the claim of the International Railways will shortly be undertaken by Mr. Price with the Guatemalan Government. The Department would be pleased if this long outstanding matter could reach a final settlement, and you are authorized in your discretion to use your informal good offices to assist in bringing about a settlement satisfactory to both parties. You should be careful not to commit yourself in any way with regard to the acceptability of the terms of the settlement, concerning which the Department has not yet been informed.

KELLOGG

814.51/584

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1491

GUATEMALA, May 11, 1927.

[Received May 23.]

SIR: Referring to despatch 1486 of May 3, 1927,¹⁰ and previous correspondence, I have the honor to report, that, on May 10, I accompanied British Minister Clark Kerr and Mr. J. P. Armstrong, repre-

⁹ Telegram to the Minister in Guatemala, *infra*.

¹⁰ Not printed.

sentative of the Council of Foreign Bondholders, to Secretary for Foreign Affairs Matos to whom we said, that we are of the opinion, that it should be gratifying to all concerned, if the matter of the British Deferred Coupons and the matter of the debt of the Government of Guatemala to the International Railways is each of them settled at an early date, each of them regardless of the date of the conclusion of the other of those two matters, and I added, that as to each of them, the Department of State would be happy to see a suitable settlement in the interest of both parties.

Just previously, the British Minister and Mr. Armstrong had called at the Legation and had informed me, that they would be glad if I would now say to the Secretary for Foreign Affairs, that the Government of the United States would be pleased to see a settlement of the matter of the British Deferred Coupons.

Mr. Armstrong then handed me a copy of a letter, dated June 20, 1925, which he said was addressed by the then Secretary of the Treasury, Mr. C. O. Zachrisson, to the Council of Foreign Bondholders, saying that the Government of Guatemala would be grateful, if, for the making of an agreement concerning the form of cancellation of the deferred interest, the result of the monetary, economic and fiscal arrangements then in progress, and which it expected to conclude in the following year, be awaited. A copy of that copy is enclosed together with translation.^{10a}

Mr. Armstrong said, that Secretary of the Treasury Palma had been showing a disinclination to negotiate with him, although it is rumored, that the Government is on the point of effecting a settlement with the International Railways. He added, that they consider, that an arrangement with the Council of Foreign Bondholders should be signed, before there is any settlement made concerning the debt of the railroad company. Mr. Clark Kerr concurred. I told them, that my own notion is, that an adjustment with the holders of the British coupons would probably make more valuable such securities as might be given to the railway company in settlement of its debt, and that, if it were to so happen, that the settlement with the International Railways is made first, it would tend to make more valuable such arrangement as the Government subsequently makes with the holders of the British coupons, and that it would indeed seem to be good policy for each of the parties to entertain best wishes for the success of the negotiations of the other. I said, that I had, within the past few days and as recently as yesterday expressed that view to the Secretary for Foreign Affairs.

After full consideration, the British Minister and Mr. Armstrong came to the conclusion, that my position is sound, but only after Mr. Clark Kerr had said, that they had heard a rumor, that I had urged,

^{10a} Not printed.

that no arrangement be made with the British bondholders until the Railway company's debt had been settled, whereupon I told him, that I had been informed, by Secretary for Foreign Affairs Matos, that they had urged, that the arrangement with the British bondholders should in any event take precedence, in consequence of which I had said to Dr. Matos, that to me it seems that, in the interest of all concerned it is best that, as to each matter, there be an agreement reached as soon as practicable, without reference to the status of the other negotiation. In that connection, I read to them what I reported to the Department on page 3 of my despatch 1483 of April 30, 1927,¹¹ including the statement that I had told the Secretary for Foreign Affairs, that I did not object to the conclusion of an immediate arrangement with the British bondholders. At my incidental mention of knowledge of the letter which the British Minister wrote Doctor Matos on April 21 (see page 3 of despatch 1483), Mr. Clark Kerr remarked, that they had forgotten to tell me about the representations they had made to the Foreign Office.

At my suggestion, we went, all three of us, to the Foreign Office, where we informed Dr. Matos, that, after full discussion, we had come to the conclusion, that it should be very gratifying to all concerned, if an arrangement were effected, at a very early date between the Government and the holders of the so-called British Deferred Coupons, regardless of whether the matter of the debt of the Republic to the International Railways has at that time been settled or not, and that, similarly, it should be gratifying to all concerned, if the Government settles, at an early date, the debt due the International Railways, regardless of the then status of negotiations between the Government and the holders of the British Deferred Coupons. I added, that my position with reference to the two matters is precisely the same, in that the Department of State considers, as to each matter, that a mutually satisfactory adjustment is desired by and desirable for each of the parties to the two respective negotiations. I had previously, at the Legation, told Mr. Clark Kerr, that I shall make the additional statement just quoted, and he had expressed himself much gratified.

Dr. Matos told us, that the Government desires to arrange each of the two matters as soon as possible, notwithstanding the financial difficulties which they present.

In other conversations, I have made it clear to Dr. Matos, that the interest shown in the matter by the Department of State does not indicate a desire to bring pressure to bear, but is inspired by a desire that the Government of Guatemala have the manifest advantage which would accrue from a settlement of this debt question on a fair and

¹¹ Not printed.

equitable basis. I have deemed it best not to discuss the subject with President Chacón for the present, leaving it to Dr. Matos to do that. He assures me, that he and the President are very appreciative of the interest shown in the matter by the Department.

I have [etc.]

ARTHUR H. GEISSLER

814.51/586

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1497

GUATEMALA, May 13, 1927.

[Received May 23.]

SIR: I have the honor to submit the following report relative to recent developments with regard to negotiations between the International Railways of Central America and the Government of Guatemala concerning a settlement of the debt due the company, and in which matter the Legation has been using good offices.

On May 9, I told Secretary for Foreign Affairs Matos, in harmony with the Department's cablegram 25 of May 7, 6 p. m., that the Department would be much pleased, if this matter were to reach a final settlement, satisfactory to both parties, and if the agreement were approved by the Assembly at its present session. I preferred, not to speak to President Chacón concerning this at the time, so as to avoid a feeling on the part of the Secretary of the Treasury that I am, over his head, bringing undue pressure to bear on the President. If, later on, there appears to be occasion for me to take the matter up directly with General Chacón, I shall, of course, do so. However, at present, the matter seems to be moving along nicely.

On May 10, Dr. Matos, having previously spoken to the President, told at a meeting of the Cabinet, what I had said to him. The Secretary for Foreign Affairs informed me the next day, that the President, the Secretary of the Treasury and the other members of the Cabinet had indicated their entire readiness to expedite negotiations, as soon as Mr. H. B. Price, Vice President of the company, returns from New York.

Mr. Price arrived on the evening of May 12. On the 13th he called at the Legation and then went to pay the President a courtesy visit. Later he reported to me, that he had talked with General Chacón only a few minutes, but that the President had said to him, that he hoped, that the negotiations to be resumed by him with the Secretary of the Treasury would lead to an agreement, in time for the same to be ratified by the Assembly, before it adjourns. Mr. Price then proceeded to take the matter up with Mr. Palma.

Reference is made to despatch 1491 of May 11, in which I reported, that the British Minister and the representative of the Council of

Foreign Bondholders have, in response to argument presented to them by me, come to the conclusion, that, contrary to their previous position, it is desirable for both the coupon holders and the railway company to each have their matter settled at an early date, regardless of which of the two is adjusted first.

Mr. Price expressed himself as gratified at all the Legation had done, while he was away, with a view to facilitating an early settlement.

I have [etc.]

ARTHUR H. GEISSLER

814.51/587

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1504

GUATEMALA, May 19, 1927.

[Received May 27.]

SIR: I have the honor to report, that, as a result of good offices, exercised by this Legation, in harmony with the Department's instruction and after active participation of President Chacón in the negotiation, the Secretary of the Treasury of Guatemala and the International Railways of Central America today signed a mutually satisfactory agreement, providing that the Government will, in payment of its indebtedness fixed at \$2,515,000.00, issue 8% bonds to the company, at par, due May 1, 1948, amortization 2% per year, secured by a first lien on a 3% consular invoice tax. The contract is to be submitted to the National Legislative Assembly, today, with a fair prospect of its being approved before that body adjourns at the end of this month.

As of possible interest, I enclose copies of memoranda of conversations I have had in the matter, subsequent to my despatch 1497, of May 13, 1927, with Mr. Henry B. Price, Vice-President of the International Railways, Mr. Fred W. Wilson, the company's special representative, and with President Chacón and Secretary for Foreign Affairs Matos.¹²

As shown by the memoranda, the agreement came about only after General Chacón had, in response to observations made by me, overridden the reluctance of Secretary of the Treasury Palma. Secretary for Foreign Affairs Matos also contributed very materially to the adjustment.

It seems, that one of the reasons for Mr. Palma's disinclination to conclude a settlement with the International Railways, for submission at this session of the Legislative Assembly, was apprehensiveness that any contract made by him would be made a text for further attacks on him by the rather numerous members of the Assembly who are

¹² Not printed.

opposed to him, another reason being that he contemplated procuring a loan of perhaps ten million dollars, secured by a lien on the customs revenues, with the proceeds of which he meant to retire the Los Altos Railway Bonds, pay for the finishing of that railroad, settle with the International Railways, extinguish the internal debt and perhaps take up the British Deferred Coupons, or at least some of them. It is understood, that that project was urged upon him by customs expert Findley B. Howard.

The International Railways did not desire to await eventual conclusion of any such arrangement, since the project would not, in any case, be ready for submission to the Assembly before it has to adjourn under the constitution, and the next session might not occur till March 1928. Mr. Price and Mr. Wilson calculated, that, at that time, the Government would probably have insisted, as it did now, that, as regards the past, it should not pay interest on the greater portion of the debt. Hence, failure to settle the matter this month, would, they figured, have left uncertain the time and form of settlement, while almost certainly leading to a loss of \$175,000.00 of interest and possibly more.

There is talk, that Mr. Palma is still inclined to contract for a \$10,000,000.00 loan, secured by a lien on the customs revenues, with the idea of then retiring the bonds issued to the International Railways.

From the memoranda it will be seen, that I made clear to President Chacón what I had previously said to Dr. Matos, to the effect, that freedom is reserved as regards the Department's attitude toward the terms of the contract. A similar statement was made by me repeatedly to Messrs. Price and Wilson. They said, that they expect to submit the contract to the Department very soon, and that they regret that it is not feasible to do so before the Assembly acts, but that they consider it very important to procure action during the few remaining days of the legislative session. They added, that, meanwhile, they have been striving to keep out of the agreement everything which might be deemed objectionable.

A tentative draft of the contract, as prepared by Mr. Wilson, was furnished me some days ago. However, in conferences which he and Mr. Price subsequently had with Government officials, several changes were made. A copy of the document as signed, will be procured and sent by the next mail.^{12a}

According to my information, the agreement provides, that the revenue pledged, as security for the bonds, shall be collected by a fiscal agent in New York, named by the bondholders and approved by the Government, through a bank in Guatemala selected by the fiscal agent.

Secretary for Foreign Affairs Matos has shown me a schedule, according to which the three percent consular invoice tax, which was pledged

^{12a} Not printed.

to the Anglo and London-Paris National Bank, as security for bonds in the sum of \$3,000,000.00, produced \$1,150,163.28, the amount per semester varying from \$212,000.00 to \$252,000.00. The three percent tax now pledged to the International Railways has heretofore been collected by the Foreign Office and used for its support. It is contemplated, that some other revenue will be provided for that Department.

The Secretary for Foreign Affairs has told me, that, at a meeting of the Cabinet held during the evening of May 17, the settlement was pronounced satisfactory by all present, including the President, and that even Secretary of the Treasury Palma joined in that view and said that he is glad that the matter has been disposed of. Dr. Matos added an expression of appreciation of what I had done toward bringing about the result. Messrs. Price and Wilson have indicated to me, that they are likewise pleased.

I have [etc.]

ARTHUR H. GEISSLER

814.51/589: Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, May 31, 1927—11 a. m.

[Received 3:10 p. m.]

51. The Assembly yesterday approved the railway debt settlement.

GEISSLER

814.51/601

The Chargé in Guatemala (Hawks) to the Secretary of State

No. 1672

GUATEMALA, October 12, 1927.

[Received October 19.]

SIR: Referring to the Legation's despatch No. 1661, of October 4, 1927,¹⁸ concerning the attempt of Mr. J. P. Armstrong, representative in Guatemala of the Council of Foreign Bondholders, to conclude an agreement with the Government of Guatemala concerning the payment of the Deferred Interest Coupons of the British Bonds in Guatemala, I have the honor to report that, Mr. Armstrong informed me last night that the Minister of Finance, Mr. Solares, had, with the authority of the Government, made him a verbal offer which he was now putting into a written agreement and which, he said, would be acceptable to both sides. This offer provides for the funding of the amount of the Deferred Interest Coupons by an issue of bonds paying 4% interest annually over a period of forty years. The Government will have the privilege of buying up these bonds on the open market

¹⁸ Not printed.

in order to reduce the amount of the debt. The difference between this and the original offer of the Council of Foreign Bondholders is that the former was for a bond issue bearing 4% interest over a period of thirty years. In the new agreement, a fiscal agent, probably the Central Bank, will be appointed and the guaranty for the payment of the interest and amortization fund, which will be the same one dollar tax on every quintal of coffee exported, as provided for in the agreement of 1913, will be deposited with this agent, thus giving the Council a tangible guaranty for the payment of the bonds. Previously, although payment was guaranteed by this export tax on coffee, the money collected from this tax was never deposited with a fiscal agent.

At the beginning of each year the Government will have a right to pay in cash to the Council of Foreign Bondholders the total amount which it will owe the latter during the ensuing year. In this event, the money provided for as a guaranty will not have to be deposited with the fiscal agent. If the Government does not desire to do this, it will give to the fiscal agent a statement of the amount, which will be owed to the Council during the coming year, and the dates upon which the various sums come due. Each week the fiscal agent will receive all the money, which has been collected due to the dollar export tax per quintal of coffee, and will keep this amount until it reaches the sum owed by the Government to the Council and will pay the Council on the specified dates.

Mr. Armstrong states that, the President and the Cabinet have all finally given their consent in principle to the conclusion of this agreement and, it is hoped that it will be definitely signed within the next ten days. The agreement will not come into effect until July 1, 1928, and, it is presumed that, it will be approved by the Legislative Assembly, which convenes March 1st of next year.

I have [etc.]

STANLEY HAWKS

814.51/600 : Telegram

The Chargé in Guatemala (Hawks) to the Secretary of State

GUATEMALA, October 17, 1927—9 a. m.

[Received 1:30 p. m.]

84. Referring to my despatch of October 12, 1927 number 1672, representative of the Council of Foreign Bondholders signed an agreement on October 15th with the Guatemalan Government funding the unpaid coupons by an issue of 4 percent bonds redeemable in 40 years by purchases on the market. Interest and amortization payable semiannually commencing June 30, 1928, the first semi-annual installment due not later than December 1928. This and

existing issue of bonds is guaranteed by one dollar per quintal export duty on coffee. Text of agreement by pouch.¹⁴

HAWKS

814.51/603

*The President of the International Railways of Central America
(Keith) to the Secretary of State*

NEW YORK, October 18, 1927.

[Received October 25.]

SIR: The International Railways of Central America recently succeeded in arranging with the Government of Guatemala a settlement of the debt of \$2,500,000. owed by that nation to this company for some years past.

I wish to thank you for the co-operation extended by your Department, and the able assistance rendered by the American Minister in Guatemala during the negotiations leading to the settlement.

We feel that without such co-operation and assistance, it is unlikely that a settlement would have been reached.

Yours very truly,

MINOR C. KEITH

REPRESENTATIONS TO THE GUATEMALAN GOVERNMENT AGAINST
PROPOSED CONCESSION OF MONOPOLY FOR CENTRAL AMERICAN
AIR LINE

812.79614/-

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1391

GUATEMALA, January 19, 1927.

[Received January 29.]

SIR: I have the honor to report, that Francisco Buch de Parada, said to have been Assistant Chief of the Mexican Air Service and understood to have ample financial backing, is in Guatemala to procure a concession in connection with his project to establish a "Pullman" aeroplane service between the City of Mexico and San Salvador, and which is, later on, to be extended to other Central American countries. In that connection, I respectfully beg leave to suggest the advisability of urging that Congress, at the present session, provide for the establishment of at least a twice-a-week air mail service between New Orleans or Key West and Puerto Barrios.

A press despatch from Mexico says, that Mr. Parada already has a contract with the Government of Mexico. No details are given.

Inspector Matthew E. Hanna, now here, to whom I mentioned the matter today, tells me, that while he was in Salvador recently, Presi-

¹⁴ Printed in *Fifty-fourth Annual Report of the Council of the Corporation of Foreign Bondholders . . . for the year 1927* (London, Council House), p. 254.

dent Quiñonez manifested much interest in the establishment of a Central American air service, mentioning in that connection that the Salvadorean Army has fourteen planes.

An air service between New Orleans or Key West and Barrios would probably carry a very large portion of the foreign mail of the Central American Republics. It might well be, that the Government of Guatemala would undertake to transport to Salvador such mail as is destined for that Republic and the Pacific coast region of Honduras, Nicaragua and Costa Rica, and that the Government of Salvador would gladly put its planes to use in carrying this mail on to points below Salvador, and vice versa.

People who have studied the matter tell me, that the transportation of this mail and a passenger service in connection with it will be very profitable, since fares between the various capitals of Central America are high. It seems strange, that American firms interested in that line do not make a more serious study of this opportunity.

It would seem, that action by Congress providing for the establishment of an air service between some point in the southern part of the United States and Puerto Barrios is highly desirable, so as to avert preemption of the aviation field in Central America by Mexico or some European interest.

Establishment of a line between the points mentioned in the preceding paragraph would greatly stimulate the Governments of Guatemala and Salvador and also private concerns of the United States to undertake an intra-Central American service.

I have [etc.]

ARTHUR H. GEISSLER

812.79614/- : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, February 1, 1927—5 p. m.

7. Legation's despatch No. 1391, dated January 19. Department desires that you discreetly ascertain who is backing Parada financially.

KELLOGG

812.79614/1 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, February 3, 1927—noon.

[Received 7:50 p. m.]

21. Referring to the Department's telegram of February 1, 5 p. m. Parada went to San Salvador 10 days ago. It is thought here that he is backed by the Mexican Government.

GEISSLER

812.79614/1: Telegram

The Acting Secretary of State to the Minister in Salvador (Caffery)

[Paraphrase]

WASHINGTON, February 4, 1927—1 p. m.

10. Department is informed by the American Legation in Guatemala that Señor Francisco Buch de Parada who was recently in Guatemala is now in Salvador for the purpose of obtaining a concession for a Central American air service. Legation states that Parada appears to have ample financial backing which is believed to be provided by the Government of Mexico.

Discreetly investigate and cable brief report to Department.

GREW

812.79614/3: Telegram

The Minister in Salvador (Caffery) to the Secretary of State

[Paraphrase]

SAN SALVADOR, February 7, 1927—3 p. m.

[Received 7:11 p. m.]

10. Department's No. 10, February 4, 1 p. m. Señor Parada arrived in San Salvador last week and submitted a proposition to the Government of Salvador to establish a passenger air service between San Salvador and the city of Guatemala. Parada was informed that as the present administration will go out of office in March the proposition will have to be studied by the new administration. Parada is now leaving and will return to San Salvador probably late next month.

CAFFERY

812.79614/5: Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

WASHINGTON, February 15, 1927—8 p. m.

13. Your despatch 1415, February 4.¹⁵ Article 24 of the contract apparently grants a virtual monopoly of air traffic between the points mentioned in Article 1. Please call this to the attention of the appropriate authorities and express the hope of this Government that no exclusive concession, preference or monopoly will be granted which would deny to American citizens a fair and equal opportunity to compete in commercial aviation in Guatemala.

KELLOGG

¹⁵ Not printed; it transmitted a copy of the proposed contract between Francisco Buch de Parada and the Government of Guatemala.

812.79614/6

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1427

GUATEMALA, February 19, 1927.

[Received March 5.]

SIR: I have the honor to report, that in the matter of the application of Francisco Buch de Parada of Mexico, for an aviation concession, which had been discussed several times by me with the Secretary for Foreign Affairs of Guatemala, I sent, on February 17, a *note verbale* to the Foreign Office expressing, in conformity with the Department's cablegram No. 13 of February 15, 8 p. m., the hope that the Government of Guatemala will not grant to anybody any preference, exclusive concession or monopoly, which would deny to citizens of the United States a fair and equal opportunity to compete, and that Dr. Matos informed me, by *note verbale* dated February 19, that the Government of Guatemala has denied the application of Mr. Buch de Parada.

Copies of the *notes verbales* are enclosed, together with a translation of the one from the Foreign Office.¹⁸

I have [etc.]

ARTHUR H. GEISSLER

¹⁸ None printed.

HAITI

AMENDMENTS TO THE HAITIAN CONSTITUTION OF 1918¹

838.00/2326

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1018

PORT AU PRINCE, June 1, 1927.

[Received June 8.]

SIR: I have the honor to forward herewith for the Department's information, a copy of the proposed amendments to the Constitution which President Borno is submitting to the National Assembly for its preliminary consideration.

I have [etc.]

JOHN H. RUSSELL

[Enclosure—Translation*]

Draft Amendments to the Haitian Constitution

In view of articles 128 and D of the Constitution and on the advice of the Council of Secretaries of State, the President has proposed and the Council of State has adopted the following amendments to the Constitution in force:

ARTICLE 1. The following articles of the Constitution are modified:

First Amendment

Article 2 is modified as follows: "The territory of the Republic is divided into departments. Each department is subdivided into *arrondissements*, and each *arrondissement* into communes. The number, the boundaries, the organization and the functions of the administrative divisions and subdivisions are determined by law."

Second Amendment

Article 16 is modified as follows: "The liberty of the press is guaranteed, under conditions determined by law."

Third Amendment

Article 19 is modified as follows: "The jury is established for criminal trials in the cases which will be determined by law."

¹ For text of Constitution, see *Foreign Relations*, 1918, p. 487.

* Translation supplied by the editor.

Fourth Amendment

Article 37 is modified as follows: "The Senators represent the departments. They are elected by universal and direct suffrage in the primary assemblies of the several departments according to the mode and conditions determined by law. The candidates shall be elected who shall have obtained the greatest number of votes in the departments. The Senate shall be renewed by thirds every two years, under the conditions determined by law."

Fifth Amendment

Article 67 is modified as follows: "Laws are dated from the day of their definitive adoption by the two Chambers, but they become effective only after promulgation which is made conformably to law. The interpretation of the laws by authority belongs only to the Legislative Power; it is given in the form of a law."

Sixth Amendment

Article 72 is modified as follows: "The President of the Republic is elected for six years. He takes office on May 15, except when elected outside the term fixed in article 43, and in the latter case the taking of the oath takes place on the day set by the National Assembly in the week following the election. He is eligible for reelection. A President who has been reelected and has exercised Executive Power for at least ten years shall not be invested with a third mandate until after a space of six years. A citizen who has been elected President three times is no longer eligible for this office."

Seventh Amendment

Article 83 is modified as follows: "There are five Secretaries of State. The President of the Republic may, when he deems necessary, add to them Under Secretaries of State whose attributions shall be determined by law. The Secretaries of State and the Under Secretaries of State are assigned to the several ministerial departments that the services of the State require. An *arrête* will fix this assignment conformably to law."

Eighth Amendment

Article 89 is modified as follows: "The Judicial Power is exercised by a Court of Cassation and by inferior courts whose number, organization, and jurisdiction are regulated by law. The President of the Republic names the judges of all the courts. He appoints and recalls the officers of the public ministry near the Court of Cassation and the other courts, the justices of the peace and their substitutes.

The judges of the Court of Cassation and those of the permanent courts other than the justices of the peace are named for five years, under reservation of causes determined by law susceptible of putting an end to their functions. They may be reappointed indefinitely."

Ninth Amendment

Article 107 is modified as follows: "The primary assemblies shall meet at regular periods for the purposes and according to the mode established by law."

Tenth Amendment

Article 109 is modified as follows: "The taxes accruing to the State and to the communes can be established only by a law."

Eleventh Amendment

Article 118 is modified as follows: "A police force, under regulations fixed by law, is established for the internal and external security of the Republic, the guarantee of the rights of the people, the maintenance of order and for police duty in the cities and the rural districts. It is the only armed force of the Republic."

Twelfth Amendment

Article E is modified as follows: "Within a period of twelve months from the publication of the present amendments the Executive Power is authorized to proceed to make all changes in the present personnel of the Courts that he deems necessary. The judges retained, like the new judges, shall be furnished with a commission the date of which shall be the date from which starts the five-year term provided in article 89."

ARTICLE 2. Articles 90 to 99, inclusive, of the Constitution are suppressed, and articles 103 to 106, inclusive.

ARTICLE 3. The aforesaid amendments shall be submitted to popular ratification at the next biennial meeting of the primary assemblies."

By the President:

[Here follow the spaces for the names
of the five Secretaries of State.]

888.00/2826 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, June 15, 1927—5 p. m.

29. General Russell's despatch 1018, June 1, 1927. The Department hopes that no further action will be taken looking to the enact-

ment of the proposed amendments to the Constitution until the Department has had an opportunity to express its opinion. Please inform President Borno accordingly and request that the matter be held in abeyance. Department will give you detailed instructions in the near future.

KELLOGG

838.00/2345

The Chargé in Haiti (Gross) to the Secretary of State

No. 962

PORT AU PRINCE, June 23, 1927.

[Received July 7.]

SIR: I have the honor to report that the text of the proposed amendments to the Constitution of 1918 were published in the local press on June 7, 1927. Since then the editorial comment in regard thereto has not been violent, although there are signs of marked organization among the members of the Opposition who will doubtless endeavor to gain a victory over President Borno when the amendments come to vote next January.

The chief criticism of the amendments is regarding the proposed six year presidential term. The Opposition will endeavor to convince the people that this portends President Borno's continuation in office for life.

The amendments which contemplate the reformation of the judiciary are not severely criticised for most people have the opinion that the judges should be more highly paid and that there is room for improvement in the judiciary in general. Some consternation has arisen among those who are doubtful about obtaining judgeships under the new order.

The available government agencies throughout the country have been asked, when opportunity arises, to inform the people that the proposed amendments contemplate the appointment of judges highly enough paid to be above suspicion, to provide for fewer judges who work harder, to assure justice in cases of poor people as well as rich, and to give judges appointments of a temporary nature until such time as their reputations and records show that they merit permanent appointment. These are the considerations which will interest the Haitian peasants most, for justices of peace in Haiti treat them, as a rule, with cruel inconsideration.

I have [etc.]

C. Gross

838.00/2326 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, June 24, 1927—1 p. m.

32. Under article XIV of the treaty of 1915 with Haiti,² the Government of the United States undertakes, the necessity arising, to lend efficient aid for the maintenance of a Government in Haiti adequate for the protection of life, property and individual liberty. The constitution is the basis of all stable republican governments. President Borno now proposes 14 amendments to the Constitution of Haiti to become operative in the course of a few months. In a period of over 150 years the United States has made but 19 amendments to its Constitution. Wide, sweeping fundamental changes in the Haitian Constitution such as these proposed might well lead to internal disorders of such a nature as to cause the Government of Haiti to call upon this Government to fulfil the obligation undertaken by it in article XIV of the treaty of 1915. In view of this relation existing between the Governments of Haiti and the United States, the Department is greatly surprised that President Borno should have submitted the proposed amendments to the Haitian Council of State and should have given out the text thereof to the press without having first discussed matter with Department of State and having arrived at a definite understanding with regard to them.

You will call immediately upon President Borno and will inform him of the foregoing, informing him at the same time that while the Department of State is not at this time prepared to state its views upon all the amendments it disapproves emphatically of amendment number 6, and is of the opinion that this proposed change in the Constitution is contrary to the principles of democratic government and is, therefore, a backward step rather than one forward in the development of popular government in Republic of Haiti. You will also say to President Borno that the Department of State hopes that he will give serious consideration to the withdrawal of this amendment and that for the present no other action will be taken on the other amendments. Report by cable immediately.

KELLOGG

838.00/2337 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, June 25, 1927—1 p. m.

[Received 5 p. m.]

53. [Paraphrase.] Department's 32, June 24, 1 p. m. President informs me that the steps taken in matter of amendments to Consti-

² *Foreign Relations*, 1915, p. 449.

tution were taken in entire accord with High Commissioner, who had previously discussed them at some length with Department although he (the President) was not aware with what official of the Department. The existing Constitution requires the publication of proposed amendments. If the Department should press the point, I think that the President might consider presentation only of those amendments for the reform of the judiciary and would postpone the question of changing the Presidential term. Like the President I also understood that High Commissioner had discussed whole question thoroughly at Department last May, although I do not recall with whom. President stated that he was confident the amendments would create no disturbance and that at present he was not inclined to alter what he had already presented to Council of State and had published in the press. He said that as alternative he would consider, however, reverting to the condition which formerly existed of changing the Constitution by vote of existing assembly. [End paraphrase.] However, it was the President's understanding that both the Department and General Russell had objected to such tactics and that the reference of the amendments to plebiscite resulted from the objections raised. The President is anxious to know where he stands as a result of the present apparent divergence of Department's views. Please instruct.

GROSS

838.00/2337 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, June 30, 1927—1 p. m.

37. Your 53, June 25, 1 p. m. Although High Commissioner Russell discussed proposed amendments when he visited Department last May, Department did not express its approval of them, and was expecting to receive a final draft for its further consideration and study before their submission to the Council of State and their publication. This final draft was not received until after the amendments had been laid before Council of State and had been given to press.

Please express to President of Haiti regret of Department that present situation has arisen and that it earnestly desires to avoid causing him any personal embarrassment or unnecessary delay in the execution of desirable reforms. The Department is not able, however, to give its approval to amendment number 6, and holds belief that for reasons set forth in Department's telegram No. 32, June 24, it should be given opportunity to study thoroughly other amendments and to indicate its opinion on them.

KELLOGG

838.00/2348

The Chargé in Haiti (Gross) to the Secretary of State

No. 963

PORT AU PRINCE, June 30, 1927.

[Received July 7.]

SIR: I have the honor to refer to Despatch No. 1030, of the High Commissioner's series, of June 27, 1927,¹ in which mention was made of additional amendments to the Constitution of 1918, which appear to have been proposed by members of the Council of State.

I now have the honor to report that the following amendments to Articles 36 and 42 of the above mentioned Constitution have been proposed to President Borno by the following Councillors of State: Messrs. Paret, J. Lanoue, and Delabarre Pierre-Louis. The changes proposed by them are:

To amend Article 36 to shorten the term of a senator from six to four years.

To add to Article 42 the power of the National Assembly to amend the Constitution.

On June 14 a petition was circulated in the District of Gonaïves protesting against the amendments to the Constitution proposed by President Borno on June 7, 1927. This petition was signed by several hundred persons and contained the following brief text:

We, the population of Gonaïves, considering that the proposed amendments to the Constitution comprise an acute danger to our democratic system by the separation of the individuality heretofore existing between the executive, administrative, and judiciary branches of the Government, and of the dignity of the Haitian people by the reduction of both natives and foreigners to a state of subjection, beg the Chief Executive to withdraw the proposed amendments.

I have [etc.]

C. GROSS

838.00/2343: Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, July 5, 1927—2 p. m.

[Received July 6—12:35 p. m.]

62. Department's 37, June 30, 1 p. m. President Borno has handed me the following unsigned penciled memorandum:

"The amendments presented to the Council of State were examined and arrived at in accord with the High Commissioner. There can be no question of withdrawing them now. The Government could only withdraw them if it replaced them by a single amendment designed to restore to the National Assembly its former existing right to amend the Constitution."

¹ Not printed.

In this regard please refer to General Russell's despatches numbers 1006 and 1013, dated respectively May 17 and 25,⁵ especially the last paragraph thereof, as well as previous correspondence.

President Borno asked whether, in view of Department's unexpected disapproval of the amendments, the Department would accept a single amendment suppressing article 128 and supplementing article 42, giving the National Assembly power to amend. He mentioned wide-spread illiteracy existing in Haiti and expressed the hope that Department, since it does not appear to disapprove of suppression of bi-chambral legislature, will not insist on a referendum to a far less intelligent set of voters, namely, the masses who are not interested in anything but peace and comfort.

The President shows evident uneasiness as a result of disapproval of amendments at this date and repeated his belief that all had been arranged with the knowledge and sanction of the Department who, he thought, had surely studied early proposals made and considered same carefully in order to be sure that no last minute objections would be raised by anyone in the United States.

The President has just informed me that the Council of State has decided to end this session on or before August 6th and reminded me that any amendment to be voted in January should be approved before this Council adjourns for the summer. He is anxious to have definite expression of Department's views on which he can depend. Although he states he cannot withdraw any amendments, I believe he would do so and I believe that a way can be found to save face. Indeed, withdrawal of objectionable amendments in answer to considerable disapproval which exists here should prove a popular mitigating circumstance and one which might remove apprehensions and even assist the remaining amendments to succeed.

The President fears that a delayed "volte-face" has been made by the Department or that Department neglected to take interest in the whole question during the preliminary discussions of the past several months. This unfortunate situation has embarrassed the Legation in its relations with him and it may shake his future confidence in General Russell and in Department. I believe that it would preserve the President's confidence in the High Commissioner and in the Department if a way could be found to place the responsibility for the belated opinion of the Department elsewhere than on General Russell or the Department. In this regard, the Department may count on my readiness to assume any responsibility which it considers will be accepted and believed by President Borno. It appears of importance to expel from his mind the doubt which has entered and to reestablish that confidence and cooperation which has existed in the past.

⁵ Neither printed.

To summarize: The matter of the amendments remains at a standstill, nobody knows of the apparent contradiction although there are rumors; the incarceration of the journalists spares the President further embarrassment at this time; the President is at present vexed and frightened, perhaps more frightened; he daily asks whether the Department has transmitted any new opinions; he requests an early and definite indication on which he can act. In the cities there is considerable academic criticism of the amendments; in the country people are indifferent as to technicalities so long as they see peace continuing and security and work uninterrupted by civil war, commandeering, and conscription is [in] passing armies. They are pleased with the prospect of eliminating present cruelty and corruption of judges of Court of First Instance.

Please instruct as soon as convenient.

GROSS

838.00/2350 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, July 8, 1927—noon.

[Received 2:50 p. m.]

65. Department's 33, June 25.⁶ I again saw President Borno late yesterday. He stated that he will accede to Department's objections to amendment 6. However, he stated that even his adversaries admit that a 4-year Presidential term is too short in disturbed countries even with two terms possible. He mentioned that the Haitian Constitution of 1879 provided 7 years and that recent Cuban and Dominican Constitutions provide 6 years. The President states he prefers 7 years with immediate reelection to succeed self. He also mentioned that he favored amendment to article 42, reported in my 59, June 29, 8 a. m.,⁶ giving to the National Assembly the interpretation of Constitution.

I believe that the present situation presents especially favorable time for the President to withdraw or modify (preferably to modify) amendment number 6 which should bring him personal [praise?], perhaps stalemate his bitterest critics, and not cause embarrassment of actually withdrawing amendment once proposed. Please instruct immediately if possible.

GROSS

838.00/2350 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, July 9, 1927—3 p. m.

41. Your 65, July 8, noon. Department can not see its way to recommend adoption of Amendments 5, 6, and 9, or suppression of Articles

⁶ Not printed.

94 to 99 of the Constitution. The Department is not disposed to object to the other reforms which have been submitted to the Assembly.

Please informally advise President Borno of the Department's views, expressing the hope that amendments which the Department finds itself unable to recommend will not be enacted.

If desired, a detailed statement of the Department's views will be forwarded to you by mail.

KELLOGG

888.00/2352 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, July 12, 1927—11 a. m.

[Received 1:10 p. m.]

68. Department's 41, July 9, 3 p. m. President Borno was visibly disturbed. He replied essentially as follows:

"This defeats our purpose and leaves us practically impotent to reform the judiciary. If the Department of State wants a reform of the magistrature it must leave in my hands more leeway in the whole question of the courts. I still feel that some one in Washington studied and approved our court problem with General Russell. These objections give me the impression that Washington does not understand our problem here, does not realize the difference in manner of thought nor the folly of thinking that our people (undisciplined in the habits of a good and [impartial?] judiciary, of constitutional interpretation by the courts, of a free press which does not encourage the overstepping of decency) can be governed by such liberal and democratic methods as can England and America whose people have the habit of good living."

However, after a frank and [full?] discussion the President consented to accede to nearly all of the Department's objections. He added that he could not understand the reasons for these objections.

In view of the approaching visit of President Vasquez⁷ and the adjournment of Council of State I request that the Department telegraph instead of writing its views mentioned in the last paragraph of its 41, July 9, 3 p. m.

The President consents to drop amendment 5 but remarked that legislation becomes hollow if the courts can, as they sometimes do, negate legislative measures at will and out of political spleen. Former Haitian Constitutions made the legislature sole interpreter of the constitutionality of laws and this is apparently still the system in France whose jurisprudence is essentially that of Haiti.

President Borno consents to drop amendment 6 but repeats objections reported in my 65, July 8, noon. May I ask what is the Depart-

⁷ Señor Horacio Vasquez, President of the Dominican Republic; for his visit to Haiti, see vol. I, pp. 345 ff.

ment's reaction to the 7-year term without reelection suggested by the President as alternative?

The President finally acceded to the Department's other objections except two and he asks that the Department reconsider its objections to the suppression of articles 95 and 99. Regarding article 95, one of the chief objections to the judicial reform was to take the Court of First Instance out of the Constitution and provide for it or for some other lower court by enactment of law. I believe committee of American Senate in 1920 recommended abolition of Court of First Instance.⁸

Argument in favor of suppressing article 99 the same as mentioned above for amendment 5.

The President appeared to favor the addition to amendment 8 of a reassuring paragraph something like the following:

After a judge's entry upon his second 5-year term he can, if his record shows noteworthy fidelity to duty and loyalty to the spirit of justice, be appointed for life. Should he previously be retired for health or other reason he shall receive the Government pension of his grade for the remainder of his life. Upon his retirement his place may be filled in the manner and for the reasons above stated provided that the number of judges shall never exceed that provided by law.

As reported in my telegram No. 59, June 29, 8 a. m.,⁹ the Council of State has proposed amendments to articles 36 and 42. President Borno has accepted and included them in his approved draft. What are the Department's views regarding them? Number 36 appears harmless and 42 covers much of the ground of amendment 5 and of article 99.

Please instruct.

GROSS

538.00/2352 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, July 14, 1927—1 p. m.

45. Your 68, July 12, 11 a. m. The Department has already stated in its No. 37, June 30, 1 p. m., that it did not express its approval of these amendments; nor did anyone in the Department make any statement to High Commissioner Russell which might have been interpreted as approval.

The Department expects you to make these facts perfectly clear to President Borno.

KELLOGG

⁸ See S. Rept. 794, 67th Cong., 2d sess.: *Inquiry into the Occupation and Administration of Haiti and the Dominican Republic*, p. 24.

⁹ Not printed; see his despatch No. 963, June 30, p. 54.

838.00/2352 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, July 18, 1927—11 a. m.

46. Your 68, June 12, 11 a. m. Department's objections to certain of the proposed constitutional amendments are briefly as follows:

Amendment 5. It is felt that this concentrates too much power in the legislative branch, and would give just ground for criticism. It would enable the Legislature by law to deprive natives and aliens alike of rights guaranteed by the Constitution, without a remedy of any kind. The Department's attention has been called to a case in which an American citizen was deprived by an act of the Legislature of the constitutional right to hold land. Moreover, adoption of the proposed Amendment would leave no check upon the Legislature, since its acts would not be reviewable. Without the power to interpret laws, the Courts could not apply them unless they were so clear as to need no interpretation. Legislatures, as a rule, do not have the faculty of framing their laws in such language as would render interpretation unnecessary. Furthermore, it is necessary in many instances for executive officials to interpret the law. Consequently, to place such authority solely in the Legislature would render the executive and judicial branches, to a certain degree, impotent. While the Department thoroughly appreciates the difficulties which may have been caused to the Haitian Government and treaty officials by arbitrary action of the courts it does not believe that the proper remedy lies in taking away the power to interpret legislation from the courts and putting that same power in the hands of the legislative body. If a law is declared unconstitutional by the courts the power to enact a new law or alter the old law so that it will conform to the Constitution still rests with the legislative body. If the courts arbitrarily use their power to hamper the Government the proper remedy would be an improvement of the judicial personnel through careful exercise of the powers granted to the Executive by the eighth proposed amendment.

Amendment 6. Department believes that the best interests of Haiti require that one man shall not remain in the Presidency more than 8 years consecutively. If the proposed amendment should be passed it is presumed that President Borno might, by being reelected, remain in office for 14 consecutive years. The Department has the highest respect for President Borno and appreciates thoroughly the efforts he has made and is making to improve the condition of Haiti and the Haitian people as well as his very helpful attitude toward the Haitian treaty officials and his evident desire to advance and facilitate their work. The Department feels, however, that it would not be for the best interests of Haiti, nor would it be statesmanlike, to allow considerations of temporary expediency dictated by the great personal qualifi-

cations of President Borno to overrule what it feels will be for the best interests of Haiti in the long run and feels sure that President Borno himself will agree that such a fundamental principle should not be sacrificed for personal considerations. Should President Borno feel that there should be one term of 6 years for President without immediate reelection, the Department would have no objection to such an amendment, it being understood, of course, that President Borno himself would not be eligible at the next election.

Amendment 9. Department considers it preferable that the date for the convocation of the primary assemblies shall be fixed by the constitution and shall not be subject to arbitrary postponement by the legislative body.

Article 95. Department is willing to reconsider its suppression of Article 95 and desires detailed report from you as to the end which is sought to accomplish and the actual changes which would be brought about in judicial procedure.

Article 99. Since the Department cannot approve of the enactment of amendment number 5 for the reasons above stated it is considered essential that Article 99 be retained in the Constitution.

The Department believes that the benefits which it is hoped will result from the enactment of proposed amendment number 8 would be lost if provisions were made for the appointment of judges for life after an initial term of 5 years. This would simply result in putting judges on their good behavior for a trial period after which the situation would be the same as under the present Constitution.

Your telegram 59, June 29, 8 a. m.¹⁰

Department offers no objection to the change of the term of a senator from 6 years to 4 years but sees no particular advantage in this alteration.

Your telegram above referred to states that "The National Assembly shall interpret the Constitution." Department cannot approve of any provision enabling the National Assembly to interpret the Constitution to the exclusion of this function by the Court of Cassation.

Your despatch 963, June 30,¹¹ says that this proposed amendment will empower "the National Assembly to amend the constitution". The Department is strongly convinced that any amendments to the Constitution should be submitted to the people. The Department understood that General Russell had discussed this with President Borno and that President Borno agreed that it would be unwise to have the Constitution amended by the National Assembly without submitting the amendments to the people. The proposed amend-

¹⁰ Not printed.

¹¹ *Ante*, p. 54.

ments as forwarded with your despatch 1018 ^{11a} provide that "these amendments shall be submitted for proper ratification at the next biennial reunion of the primary assembly". The Department approves of this method of amending the Constitution.

KELLOGG

838.00/2360 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, July 21, 1927—8 p. m.

[Received July 23—5:40 p. m.]

82. Department's 46, July 18, 11 a. m. The President is disposed to accept the Department's conclusions.

Regarding amendment 5 and article 99, the President feels that the Department should at least consent that the legislature should interpret the meaning of its own laws, otherwise intended meaning is lost. Furthermore he states that in federated countries like the United States decisions as to constitutionality of State laws naturally rests with a constitutional Supreme Court but in unitary countries like France and Haiti the legislature not only interprets meaning of its laws but also decides as to their being constitutional in order that political war between judiciary and legislature may not checkmate or interfere with legislation for the good of the people, as in the case of the now defunct Wharfage Law of January 12, 1927. General Russell and Judge Strong both share the President's views on this point.

Regarding amendment 6, the President consents to make a public declaration of his noncandidacy for the next election in 1930. He therefore plans to propose a single 7-years term which he states is agreed by all factions to be the most satisfactory. Since the Department has accepted 6 years I have told the President I was of the opinion that 7 years would also be acceptable and would mention the same to the Department provided of course that he be not a candidate in 1930. Please confirm or refute. If the Department confirms I recommend the Department instruct me to suggest to the President text similar to the following:

"The President of the Republic is elected for 7 years. His term begins and ends on May 15. No one who has been elected President or who is designated to complete a deceased President's term of office, and who has served or been serving 4 or more years, shall be eligible for reelection until after an interval of 7 years."

Regarding article 95, the Department asks what aims are in view and what judicial changes will result from the suppression of this article. The President states that suppression of the article aims

¹ See the High Commissioner's despatch No. 1018, June 1, p. 48.

at more latitude in formulating reforms admittedly desired, such as reforms in court of first instance which the Department will recall was recommended in the summary of the report of the Senate committee under Senator McCormick.

Regarding changes to be effected through suppression of article 95, President states that, with courts of first instance remaining in the Constitution and the code of commerce named as a method of procedure, no rectification can ever be made in courts of appeal because these courts must always remain in order to review wrongs which will always result from trials by courts of first instance if same continue to exist by authority of the Constitution rather than by laws alterable to meet changing needs of the country. Article 95 confines commercial procedure to a cumbersome, ineffective and expensive procedure which is specified in the code of commerce; this necessitates the existence of and recourse to courts of appeal.

Regarding article 99, an understanding sanctioned by the Department would seem to have been reached between General Russell and President Borno.

Request an early decision as to the 7-year term with the President not a candidate at the next election. Request also a reply regarding article 95. Before replying as to article 99 please refer to my despatch number 1041, dated July 14,¹² and to memorandum of Judge Strong, dated July 12,¹³ and transmitted therewith, especially the last page and paragraph thereof.

GROSS

538.00/2359: Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, July 23, 1927—1 p. m.

49. The Department has received the following telegram from General Russell:

"Through the Haitian Minister at Paris I have received a telegram from President Borno reading as follows: 'Inform General Russell that Department of State has raised objections to the constitutional amendments. Make known to him that it is urgent to obtain a solution of question.'

Early in May I discussed proposed amendments with Mr. Wilson and Mr. Baker¹⁴ and it was my understanding that the Department was in accord except on article covering the election of president. . . .

¹² Not printed.

¹³ Not printed; Richard U. Strong was legal adviser to the High Commissioner in Haiti.

¹⁴ Warden McK. Wilson of the Division of Latin American Affairs, and J. R. Baker of the Office of the Solicitor.

If the Department does not agree to article 6 as now proposed I recommend that it be suggested to President Borno that he publicly announce that he has no intention of again being a candidate for the presidency and that consequently it is immaterial to him whether or not the last paragraph of article 6 be retained excepting the first three words.

Concerning the other proposed amendments, I am of the opinion that those relating to the judiciary and communes are absolutely essential for the development of Haiti and the carrying out of the provisions of the treaty and I therefore cannot too strongly urge the Department's prompt accord."

The Department has today sent the following reply to General Russell:

"The Department never expressed its approval of the proposed amendments which you brought to its attention in May. They were not at that time in their final form and the Department expected that before submission to the Council of State or any expression of approval by you they would be submitted to the Department for careful study and consideration and an expression of opinion. In a despatch discussing the proposed amendments, dated May 17,¹⁵ received May 25, you informed the Department that you would forward a revised draft to the Department for its information. Nothing further was heard on the subject until your arrival in Washington on June 7, when the Department learned to its great surprise that the amendments had been submitted to the Council of State and given to the press on June 6, and that you had apparently expressed your full approval of them.

The Department immediately gave careful study to the amendments and telegraphed Mr. Gross that it could not see its way to recommend the adoption of amendments five, six and nine, or the suppression of articles 94 to 99 of the Constitution. Mr. Gross was instructed to advise President Borno of the Department's views, expressing the hope that the amendments which the Department found itself unable to recommend would not be enacted.

The Department could not approve of the concentration of too much power in the legislative branch since this would leave no check upon the legislature, whose acts would not be reviewable.

The Department could not approve the extension of the term of President Borno to 14 years when his term is expressly limited to 8 years by the present Constitution. It was felt that both of these provisions tended to set up a dictatorship which would be subject to just criticism and the responsibility for which would be laid on the Department.

The Department further considered it preferable that the date of the convocation of the primary assemblies should be fixed by the Constitution and should not be subject to arbitrary postponement by the legislative body."

KELLOGG

¹⁵Not printed.

838.00/2350 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, July 23, 1927—2 p. m.

50. The Department in stating in its telegram No. 41, July 9, 3 p. m. that it was not disposed to object to Amendments other than 5, 6 and 9 presumed that the eighth Amendment giving the President the right to revoke "the public officials attached to the Court of Cassation and other courts, the justices of the peace and their substitutes" did not contemplate that the President would have the right to remove the judges of the Court of Cassation or of the other courts. In other words, after the President appoints the members of these courts in accordance with Article E of the twelfth Amendment it was the Department's understanding that they cannot then be removed during the period of their appointment except by impeachment proceedings for cause. Please have President Borno and Judge Strong confirm this to you and telegraph Department.

Cable the number of judges on the Court of Cassation.

In view of uncertainty of translation of word "forfaiture" in Articles 100 and 101 of the French text of the Haitian Constitution inquire of Judge Strong whether this covers all cases for which impeachment proceedings would be justified against any judge.

KELLOGG

838.00/2367 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, July 29, 1927—2 p. m.

[Received August 1—12:30 p. m.]

85. Department's 50, July 23, 2 p. m. President Borno states that he does not contemplate that amendments to [amendment] 8 shall permit the President to remove judge before the expiration of his term. The President further states that impeachment is the only way a judge could be removed before the end of his term. The President further confirms the above and suggests that after the changes in the Constitution have been made it would be proper to enact a law providing for the removal of judges for incompetency, neglect of duty or physical disability; decision in the premises to be arrived at by the Superior Council of Magistrates which under the law of May 12, 1920, now has the power of supervision only.

Eleven judges of Cassation.

Judge Strong states that the word "forfaiture" in articles 100 and 101 of the French text of the Constitution does not cover all cases for which impeachment proceedings would be entertained against any

judge. He states that "forfeiture is defined in the Larousse legal dictionary as being 'every crime committed by a public officer in the discretion of his duties' and therefore refers only to crime in office".

Regarding amendment 8, the Department may desire that I ask President Borno to add to that amendment the provision that a judge once nominated by the President cannot be removed before the end of 5-years term except by impeachment for cause.

GROSS

838.00/2367 : Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, August 16, 1927—noon.

60. Your 85, July 29, 2 p. m.

1. Amendment 6. The Department feels that if any change in the present Constitution is to be made a 6 year term without reelection would be preferable, it being clearly understood that President Borno is not to be a candidate again until after an interval of at least 6 years. The Department suggests the following text:

"The President of the Republic is elected for 6 years. His term begins and ends on May 15. No one who has been elected President or who is designated to complete a President's term of office shall be eligible for reelection until after an interval of 6 years. A citizen who has been elected President twice shall not thereafter be eligible for that office."

2. The Department believes that a provision should be added to Amendment 8 to the effect that a judge once appointed by the President cannot be removed before the end of his term except for impeachment for cause. The Department believes the treaty officials should give careful consideration to the question of improving the laws governing impeachment and the procedure provided. The Department is of the opinion that the terms of all the judges of the Court of Cassation should not expire at the same time, and furthermore that all of the members of the Court should not be appointed during any one presidential term. Otherwise there is too great a danger of the judiciary being subservient to the executive. The Department fails to see the necessity for 11 judges of Cassation in a country the size of Haiti and believes that this number could be reduced to 5 without seriously delaying the course of justice. The Department accordingly desires you to propose that the number of judges be reduced to 5, appointed for a term of 10 years, the term of one judge to expire every 2 years. Under the transitory provisions the President would appoint a new Court of Cassation as soon as the amendments to the Constitution go into effect. The 5 judges

then named should be appointed for terms of varying lengths ranging from 2 to 10 years.

The Department further believes that other judges should be appointed for a term of 7 years subject to removal for cause on the recommendation of a committee of the Court of Cassation after due investigation.

3. The Department does not object to the suppression of Article 95 provided the treaty officials are sure that beneficial reforms will result from suppression of this article.

4. The Department cannot withdraw its objection to the suppression of Article 99.

KELLOGG

838.00/2375 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, August 18, 1926 [1927]—1 p. m.

[Received 2:55 p. m.]

97. Department's 60, August 16, noon, regarding constitutional amendments.

Please instruct whether the Department approves of the President's contention, previously reported, that the Legislature can explain or interpret the meaning of its laws. Please note this is not interpretation as to constitutionality but simply explanation as to the meaning and intent at the time any law was passed by the Legislature.

The President informs me that the Council of State will reconvene the first week in September.

GROSS

838.00/2376 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, August 22, 1927—8 p. m.

[Received August 23—7:10 p. m.]

98. The substance of the Department's telegram 60, August 16, noon was duly communicated to the President. In general his opinions coincide with those of the Department but he stated that most of the changes recommended by the Department would naturally and necessarily be regulated by the laws which will be enacted after the amendments are passed. He added that some of the Department's suggestions are hardly material which can be included in the text of a constitution.

We talked at length on the questions still outstanding.

Regarding amendment 5 to article 67, the President hopes the Department will approve of the provision by which legislature interprets the meaning of its own laws. This does not concern the question of constitutionality because constitutionality normally would come before the court after the legislature had explained the meaning of any unclear laws.

Regarding amendment 6 to article 72, the President disagreed with the Department and gave as his reason that if an ad interim President, elected to fill a short unexpired term, were disqualified to succeed himself for one full term, the best candidates would refuse to accept the office and would prefer to be elected for a full term of 6 years. The President asks whether the Department would accept the text of articles 90 and 93 of the Constitution of 1899 [1889] substituting the word six for the word seven. President Borno assured me he would not be a candidate at the next election and that he would engage himself to that effect with the Department. However he feels that a public statement [apparent omission] to that extent, deeming it might precipitate a political realignment which might jeopardize the passage of the amendment next January.

Concerning the Department's remarks relating to amendment 8 to article 89, President Borno agrees to add provision that a judge once appointed cannot be revoked by the appointing power but will remain in office and not subject to removal or suspension except for reasons and in a manner to be established by law. The laws contemplated will, he assured me, satisfy the Department's suggestion regarding crime and misconduct in or out of office.

Regarding amendment 9 to article 107, the President [desired?] that the words "tenth of January" be substituted for the words "on the dates".

Regarding amendment 11 to article 118, President Borno explained the desire to carry out this apparently useless amendment in order to dignify career in the *gendarmerie* and change the unpopular French word "gendarmerie" to something like National Guard, Republican Guard, or simply Guard, because, he stated, the better Haitians have an aversion to associating themselves with a *gendarmerie* and become gendarmes thereby.

Regarding suppression of article 99, the President again mentioned that in France, which is a unitary country like Haiti, the Legislature decides constitutionality of laws, sometimes however asking the advice of the jurists. The President repeats that no comparison exists between the well disciplined United States and the amateur judiciary in Haiti. He is reluctant to retain this article and desires to draw the attention of the Department once again to his reasons for its suppression or modification.

In concluding the President asked that I hand him at an early date a definite list of the amendments approved by the Department in view of the approaching opening of the Council of State 10 days from now.

In this regard it is my present understanding that the following amendments are acceptable or at least not unacceptable to the Department in their present form and without changes other than those discussed telegraphically since June 15th last: Amendments to articles 2, 16, 19, 36, 37, 85, 89, 109, 118, and article E of the Constitution as well as the suppression of articles 90, 91, 92, 93, 95, 104, 105, 106, 119 and the last paragraph of article 77. It is likewise my present understanding that the amendments proposed to the following articles are not yet finally approved or disapproved by the Department: Articles 67, 72, 89, 107 and the suppression of article 99.

Please confirm the above and instruct at the earliest possible date.

Gross

838.00/2375: Telegram

The Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, August 23, 1927—6 p. m.

61. Your 97, August 18, 1 p. m. Department does not understand your question. As stated in No. 60, the Department cannot withdraw its objection to the suppression of Article 99. This prevents the legislature from passing upon the constitutionality of the laws but does not prevent it from passing any law containing explanation or interpretations when it may please to do so. It does not seem necessary to expressly provide for this right in the Constitution and to do so may cause confusion.

Your despatch 1054, August 1, 1927.¹⁶ To summarize: The Department has no objection to the extra amendment proposed by the Council of State to Article 36 of the Constitution but would point out that it now being proposed that the Presidential term shall be extended to 6 years it would seem preferable to leave the term of senators unchanged. Also it is possible to provide for renewal by one-third every 2 years with a 6 year term. The Department does object to part 4 of the new amendment proposed by the Council of State to Article 42 of the Constitution as stated in the Department's 46, of July 18. The Department approves the text as submitted in your despatch of amendments 1, 2, 3, 4, 7, 10, 11, and amendment 12 if the term is changed to 10 years.

Amendment 5. See objections contained in Department's 46 of July 18.

¹⁶ Not printed.

Amendment 6. The Department hopes that the President will see fit to accept the text as suggested in the Department's 60 of August 16. Additional paragraphs should be discarded. The Department considers that Article 77 of the Constitution takes care in the best possible way of the emergency created by a vacancy in the Presidential chair.

Amendment 8. Please follow the Department's suggestions contained in No. 60 of August 16 and submit final text to the Department by cable.

Amendment 9. Department cannot approve this amendment for the reasons stated in its No. 46.

As stated above and in the Department's No. 46 the Department is firmly convinced that neither Article 77 nor 99 of the Constitution should be suppressed. The Department has consented to the suppression of Article 95. See Department's 60. The Department does not object to the suppression of Article 119 since this appears to be covered by amendment 11.

KELLOGG

838.00/2376 : Telegram

The Acting Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, August 25, 1927—2 p. m.

63. With reference to your No. 98, August 22, 8 p. m., Department has already covered all points in question and after careful consideration does not feel able to change its position. Department regrets that it cannot agree with President Borno on suppression of article 99; and although the President's point of view has been taken into consideration, the Department feels that this article should remain in the Constitution.

Department perceives no reason for making any change in article 107. If words "tenth of January" are substituted for the words "on the dates" in proposed amendment, Department desires to know what is aim sought to accomplish by suppressing paragraphs 2, 3, and 4 of article 107.

Department will not alter its suggestions on amendment number 6 and the retention of article 77. Last paragraph of your telegram was somewhat garbled but Department's attitude was fully stated in its No. 61, August 23, 6 p. m., which you should carefully follow.

CASTLE

838.00/2380 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, August 29, 1927—6 p. m.

[Received August 30—6 p. m.]

100. Department's 63, August 25, 2 p. m. Regarding amendment 5 to article 67, the President is willing to withdraw this amendment.

Regarding amendment 6 to article 72, President Borno states that in the public interest he prefers to withdraw this amendment entirely and leave article 72 as it now is, although he states he is convinced that 4 years is too short a term. He states he fears that under the second sentence of the Department's text of telegram every one would refuse to be candidate for a short unexpired term as President. This he stated might cause a crisis and invite bold action and the subsequent revision of this [article?] of the Constitution by the successful aggressors. Although I believe that in the President's mind this remote possibility is a real danger, he admits that such a situation would probably never arise except perhaps in the case of an extremely short unexpired term. The President is reluctant to give up the 6-year term which he states is universally considered as better for Haiti than 4 years with the hope and uncertainty of reelection incident thereto. He states that he is not in favor of a Vice President to fill unexpired term because of ever present friction. In this regard he cites Santo Domingo.

In view of the fact that this is the amendment that is met with most opposition throughout the country because of the fear that President Borno seeks to prolong his present term, the withdrawal of this amendment would very probably remove much of the exaggerated protest which exists against the amendments as a whole.

Regarding amendment 8 to article 89, the President proposes the following text:

"The judicial power is exercised by a Court of Cassation and inferior courts whose number, organization, and jurisdiction shall be regulated by law.

The President of the Republic shall appoint the judges of all the courts. He shall appoint and revoke the prosecuting attorneys assigned to the Court of Cassation and the other courts, as well as the justices of peace and their assistants.

The judges of the Court of Cassation shall be named for 7 years and those of the permanent courts other than those of the justice of peace shall be appointed for 5 years.

A judge once named shall not during his term of office be revoked by the Executive authority. However all judges shall be subject to the provisions of articles 100, 101, 102 of this Constitution and to the disposition of special laws organizing the magistrature.

Judges of Cassation who have served for 25 years of which 8 shall have been on the Court of Assizes, without reprimand or im-

peachment, may, if they enjoy a good reputation publicly and professionally, be declared eligible for permanent appointment subject to existing pension laws."

The Department might prefer the following wording for the last paragraph:

"The reappointment of a Judge of Cassation who shall have served as a judge for not less than 25 years, including not less than 8 years as a Judge of Cassation, shall be eligible for life appointment subject to existing laws."

Regarding amendment 9, the President is willing to withdraw it and retain the text of the existing Constitution. He states that his original reason for proposing this amendment was that the ground it covers in paragraphs 2 and 3 is already covered by articles 29, 35, 39, and 128 of the Constitution.

It appeared therefore that, excepting amendment 8 of article 89, the amendments are now either acceptable to the Department and President Borno or have been withdrawn. Please instruct regarding amendment 8.

GROSS

838.00/2380 : Telegram

The Acting Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, August 31, 1927—6 p. m.

66. Your 100, August 29, 6 p. m. Regarding amendment 6 to Article 72 the President seems to have been given the wrong impression of the Department's views. The Department has at no time suggested that the office of Vice-President be created nor has it objected to an amendment changing the term of office of the President to 6 years provided he is not eligible to succeed himself. On the contrary the Department in its No. 60 of August 16 suggested a new and satisfactory text extending the term of office to 6 years. However, should President Borno prefer to retain Article 72 without amendment the Department will not object. The Department does not share the President's views concerning the dangers of the present provisions governing succession in case of a vacancy.

Regarding amendment 8 to Article 89 the Department wishes you to urge very strongly on the President the advisability of retaining the suggested term of 10 years for judges of the Court of Cassation and of 7 years for other judges. You have not mentioned Department's suggestion that the number of judges of the Court of Cassation be reduced. Has the President given this suggestion his consideration?

CASTLE

838.00/2385 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, September 5, 1927—11 a. m.

[Received September 6—10:40 a. m.]

106. Department's 66, August 31, 6 p. m. It is true that the Department at no time suggested that the office of Vice President be created. President Borno mentioned this to me in our conversations regarding possible ways of orderly fulfillment of an unexpired Presidential term. The President has decided to leave article 72 in the Constitution as it is. In making this decision he stated again that he would have preferred a single term of 6 years without re-eligibility until after 6-year interval, provided the person elected to fill an unexpired Presidential vacancy would be sure of a 6-year incumbency in that office as was provided in the Constitution of 1889. He noticed that the text proposed by the Department omitted the clause prohibiting unlimited reelection President.

Regarding the terms of judges, President Borno is willing to accept term of 10 years for judges of Court of Cassation and of 7 years for other judges. However he referred to the apparent ease with which Wharf Company obtains judicial approval of its acts as one more argument in favor of short terms for judges.

Regarding Department's suggestion that the number of judges of the Court of Cassation be reduced, the President stated as previously reported that this question will be carefully considered when framing the laws organizing the magistrature. He mentioned that the Haitian Constitution, like that of the United States, does not stipulate the number of judges on the courts. Nevertheless the President agrees in principle with the Department's suggestion that the number of judges be reduced. As the Department doubtless knows there always [have?] been two sections to the Court of Cassation which for certain purposes hold combined sessions. Reference is made thereto in articles 99, 100, 101 of the Constitution. Each of these sections requires a modification of three judges. The President considers seven judges preferable to five.

Does the Department desire a final written or telegraphic draft of the Amendments as they stand after being changed in accordance with telegrams exchanged since June 15th?

The first available steamer leaves Port au Prince September 7th. Final draft could not reach the Department before September 13th. Please instruct.

GROSS

838.00/2386 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, September 9, 1927—4 p. m.

[Received 10:55 p. m.]

112. Herewith the constitutional changes which President accepts and which, according to my records, the Department also approves. Please see typewritten draft transmitted to Department with despatch number 1054 dated August first.¹⁷

Articles 2, 16, 19, 36, 37, 85, 109, 118, remain as indicated in above-mentioned draft.

The following articles of the existing Constitution are cancelled: Articles 90, 91, 92, 93, 95, 104, 105, 106, and 119.

Article 89 is amended to read as follows:

"The judicial power is exercised by a Court of Cassation and inferior courts whose organization and jurisdiction shall be regulated by law.

The President of the Republic shall appoint the judges of all the courts. He shall appoint and revoke the prosecuting attorneys assigned to the Court of Cassation and the other courts, as well as the justices of peace [and] their assistants.

The judges of the Court of Cassation shall be named for 10 years and those of the permanent courts other than those of the justices of peace shall be appointed for 7 years.

A judge once named shall not during his term of office be revoked by the Executive authority. However, all judges shall be subject to the provisions of articles 100, 101, 102, of the Constitution and to the dispositions of special laws organizing the judiciary and setting forth the reasons for which a judge may be relieved of his office.

A Judge of Cassation who shall have served as a judge for not less than 25 years, including not less than 8 years as a Judge of Cassation, shall be eligible for life appointment, subject provisions of the preceding paragraph of this amendment."

Remainder following.¹⁸

GROSS

838.00/2387 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE [undated].

[Received September 9, 1927—11:40 p. m.]

113. Continuation of telegram of September 9, 4 p. m., Article E of the transitory provision of the Constitution is amended as follows:

"In the 12 months following the going into effect of these amendments, the Executive Power is authorized to proceed with the personnel of the courts and make the changes which he deems necessary.

¹⁷ Not printed.¹⁸ See undated telegram, *infra*.

The judges whom he retains, as will be the case with the judges whom he names, shall be vested with a commission for 10 years in the cases of the Judges of Cassation and 7 years in the cases of judges of the permanent courts other than justices of peace.

These commissions become effective from the [date] which appears on them as provided in the amended article 89 of the Constitution.

In order to establish in the courts periodic succession of judges, the Executive is authorized in the first appointments, to name certain [of the?] judges for terms of less than the above-mentioned terms. A law will establish the manner of making these appointments."

GROSS

888.011/75 : Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, September 26, 1927—6 p. m.

[Received September 27—1:15 p. m.]

125. Referring to the Department's draft of article 72 of the amendments to the Constitution. President Borno points out that if President died or the office otherwise became vacant after 5 or more years the proposed text would only permit of the election of a President for a few months and he would then become ineligible. In view of the scarcity of Presidential timber in Haiti, President Borno believes this amendment would impose an undue hardship on Haiti and he proposed to return to the situation existing under the Constitution of 1889 with a change from 7 to 6 years. This situation was fixed by articles 90 and 93 of said Constitution.

Following this idea article 90 would become article 71 [72] of the Constitution of 1918 to be amended to read as follows:

"Article 72. The President of the Republic is elected for 6 years and is not immediately eligible for reelection. He will begin his duties on May 15, except when he is elected to fill a vacancy; in such case he is elected for a term of 6 years and his functions will always expire on the 15th day of May even though his 6 years are not completed. Any person who has served as President becomes eligible for reelection after an interval of 6 years. A citizen who has been elected President twice shall not thereafter be eligible for office."

Article 93 of the Constitution of 1889 is replaced by Article 77 of the Constitution of 1918. That article, therefore, should be amended to read as follows:

"Article 77. In case of vacancy in the office of the President, the Council of the Secretaries of State is temporarily clothed with the Executive power.

"It will immediately convoke the National Assembly for the election of his successor.

"If the Legislative Assembly is in session, the National Assembly will be convoked without delay. If the Legislative Assembly is not in session, the National Assembly will be convoked in conformity with article 45."

Amendments made in this form I believe carry out President Borno's ideas which appear to be entirely reasonable and meet with the Department's views.

As the Council of State is now in session awaiting to vote on the amendments an early reply is requested.

RUSSELL

838.011/77: Telegram

The Secretary of State to the High Commissioner in Haiti (Russell)

WASHINGTON, October 1, 1927—11 a. m.

83. Your 125, September 26, 6 p. m. Please inform President Borno that the Department has read the text of the suggested amendments to Article 72 and 77 of the constitution as set forth in your telegram and has no objection to make to either but suggests with a view to the removal of all ambiguity respecting the provisions of Article 72 it would be better to change it to read as follows:

"With the exception noted in the next paragraph, the President of the Republic shall be elected for 6 years. He shall not be immediately eligible for reelection.

"He shall enter upon his duties upon May 15th of the year in which he shall be elected, except when he has been elected to fill a vacancy, in which case he shall enter upon his duties immediately after his election and his term of office shall cease and determine 6 years from the immediately preceding 15th of May.

"One who has served as President becomes eligible for reelection after an interval of 6 years following the expiration of his term of office, unless he has been elected President twice, in which case he shall not thereafter be eligible for that office."

The text of the other amendments given in your despatch No. 1076 of September 10¹⁹ conforms with previous agreement and the Department's suggestions. There is therefore apparently no reason why the President should not now submit the amendments to the Council of State.

KELLOGG

838.011/82

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 1089

PORT AU PRINCE, October 4, 1927.

[Received October 11.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 83, dated October 1, 11 a. m.

Upon careful reading of the Department's suggestion, regarding the provisions of Article 72, it appeared that the wording "unless he has been elected President twice, in which case he shall not be

¹⁹ Not printed.

eligible for that office" would disqualify the candidate from serving immediately on his second election. I therefore added in paragraph 3 of said Article 72, after the word "election", the words "and has served as", thus making two terms of office the disqualifying factor rather than two elections.

In the last line of the last paragraph of Article 72 the word "not" did not appear. The omission was obvious and probably due to garbling of message in sending. I therefore inserted the word "not" after the word "thereafter".

President Borno expressed his entire agreement and stated that the amendments would probably be voted Wednesday, October 5th.

I have [etc.]

JOHN H. RUSSELL

838.00/2406: Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, October 5, 1927—11 a. m.

[Received 2:35 p. m.]

135. President Borno this morning sent for me and stated that a number of members of Council of State representing a majority had just called on him and desired to change paragraph 1 of article 72 to read that the term of office of President shall last for 6 years, this in order to give him (President Borno) two more years. I informed him that I could not agree to such a radical change without first obtaining approval of the Department. The President stated that there was not time for that as the amendments must be voted today and that he would consequently request the Council not to make the change it desires.

RUSSELL

838.011/83

The High Commissioner in Haiti (Russell) to the Secretary of State

[Extract]

No. 1095

PORT AU PRINCE, October 12, 1927.

[Received October 20.]

SIR: I have the honor to report that the proposed amendments to the Haitian Constitution of 1918, were passed by the Council of State on Wednesday, October 5, 1927, and were approved the same day by the President.

It appears, however, that the publication of Article 77 was, through negligence, omitted. It was, therefore, necessary to publish an extra edition of the *Moniteur*, under date of October 8, 1927, reciting anew the proposed amendments and including Article 77. A copy of the

extra edition is herewith attached, as well as an English translation thereof.²⁰

Referring to the amendments, it will be noted that they conform closely to the final draft as agreed upon.

I have [etc.]

JOHN H. RUSSELL

AMENDMENTS TO THE HAITIAN ELECTORAL LAW OF 1919²¹

838.00Electoral Law/7 : Telegram

The Acting Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, July 1, 1927—2 p. m.

38. Department wishes you to telegraph present status of the electoral law and whether there is any possibility of enactment of the proposed law in near future, in which event you will request delay until the Department is able to express its views. The Department has not approved any final draft of such a law.

OLDS

838.00Electoral Law/10 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, July 9, 1927—noon.

[Received 3:25 p. m.]

67. Department's 40, July 8, noon.²² Electoral law has been referred to Minister of the Interior for study and preparation of text reforming old law. Will obtain text in the present form and communicate to the Department for the consideration of new proposals before the same are laid before Council of State.

GROSS

838.00Electoral Law/12 : Telegram

The Acting Secretary of State to the Chargé in Haiti (Gross)

[Paraphrase]

WASHINGTON, September 16, 1927—3 p. m.

74. You will inform President Borno that Department would be pleased to have opportunity to examine proposed electoral law before it is acted upon by Council of State.

²⁰ Not printed. The amendments to the Constitution were adopted by a popular plebiscite held Jan. 10-11, 1928. See *Constitution de 1918 de la République d'Haiti, Amendée par le Plebiscite de 10 et 11 Janvier 1928* (Port au Prince, 1928)

²¹ For previous correspondence concerning reform of the electoral law, see *Foreign Relations*, 1925, vol. II, pp. 294 ff. For text of the law, see *Bulletin des Lois et Actes Année 1919* (Port au Prince, 1920), p. 251.

²² Not printed.

Department prefers not to give opinion at present on modification relating to personnel of boards of each district. This matter appears to be one of internal administration which should affect in no way the successful carrying out of treaty provisions.

CARR

838.00Electoral Law/18:Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, September 17, 1927—2 p. m.

[Received 6:15 p. m.]

119. Department's 74. No steamboat to New York before September 22. Text of President's amendment to the existing electoral law could not reach Department before September 29. Hence this telegram.

The law referred to in my 115, September 12, noon,²⁸ is a law modifying articles numbers 18, 25, 26, 51 and 62 only, of the electoral law of 1919 as follows:

Article number 18 amended to provide that a registry of voters be kept open at Communal Building four hours daily until December 31. No mention is made of the day from which registry should remain open although existing article number 13 mentions October 1st.

Article number 25, as modified, defines primary assemblies as consisting of all citizens duly registered in the electoral list of any election district who carry with them their electors cards.

Article 26 as modified, provides that primary assemblies elect Senators and Deputies only when occasion arises. Modification also adds authority to amend Constitution which was omitted in the article of the old law.

Under present article 51, the election board in each district is composed of dean of the court of first instance, local states attorney and the local inspector of schools. The new proposal substitutes prefect and office of the *état civil* (vital statistics) for the dean and the school inspector respectively.

Article 62 is amended to read

"Every individual who shall have committed or attempted to commit acts of violence, provoked or attempted to provoke a tumult capable of prejudicing election proceedings shall be, on the written order of the justice of the peace or of the prosecuting attorney, detained in the prison of the locality for 24 hours.

Those who with the aid of false news, of subversive conversation or other maneuvers, shall have influenced or attempted to influence voters, shall have convinced or attempted to convince one or more electors to abstain from voting, shall be punished by imprisonment of from 6 months to 1 year and by a fine of from 500 to 1,000 gourdes."

²⁸ Not printed.

The old article 62 provided that a person imprisoned upon written order was deprived of his vote at the election in process. As the Department will note above, the text of the article now proposed omits this provision.

I have communicated to the President the substance of the first part of the Department's telegram 74; he hopes for an early expression of opinion.

GROSS

838.00Electoral Law/15: Telegram

The Acting Secretary of State to the Chargé in Haiti (Gross)

WASHINGTON, September 21, 1927—6 p. m.

78. Your 119, September 17, 2 p. m. The Department wishes to render all possible assistance in conformity with President Borno's desire to expedite the passage of the suggested amendments to the electoral law of 1919 so that the new provisions may go into effect in time for the elections of January 10, 1928. However, the Department is unable to give its opinion as to either the second or third paragraphs of your telegram as they leave the Department in doubt as to their meaning. Articles 18 and 25 of the law of 1919 seem to provide for exactly the things which you outline as a part of the new amendments.

Article 26. The Department feels that the suggested change is unnecessary inasmuch as the Transitory Provisions of the constitution take care of the present situation in a satisfactory manner. The electoral law it is felt should not be modified to meet temporary situations but with a view to permanence. The Department does not understand the proposed modification which "adds authority to amend the constitution". The Constitution itself provides how it shall be amended and it would seem clear that this is not a matter which should be dealt with in the electoral law.

Article 51. See the Department's comment contained in the second paragraph of its No. 74, September 16.

Article 62. The Department sees no objection to the proposed text down as far as the words "those who". The remainder of the text seems to give to the local authorities during election times the right to throw an individual voter into prison for reasons which do not appear to be very substantial. The Department has confidence that in so far as the administration of President Borno is concerned every effort would be made to prevent a misuse of this authority but feels nevertheless that this part of the amendment should not be included in the text.

CARR

838.00Electoral Law/16: Telegram

*The Chargé in Haiti (Gross) to the Secretary of State*PORT AU PRINCE, *September 23, 1927*—1 p. m.

[Received September 24—9:54 a. m.]

122. Department's 78, September 21, 6 p. m. Regarding article 18, the text of the article is changed to make "registry" plural instead of singular and in article 25, the text is changed to read "the localities where the lists are on file" instead of the "locality where the list is on file". In every other way the text is identical with the law of 1919.

Article 26. The President now informs me that this has been struck out of the proposed law and therefore the Department's views in this regard appear to be satisfied.

Article 62. Regarding this article the text beginning with the words "those who" is necessary according to the President's ideas. He states that he has simply copied the text of the existing French law. In this regard the President assures the Department that there will be no abuse but he maintains the conviction that the obstacle to election day frauds is one that must exist in order to prolong [*prevent*] the circulation by the opposition of last minute falsehoods such as reports that the Government has ceded territory or that it has passed certain onerous laws. The President states that such a clause prevents the commission of the very acts for which it provides punishment.

GROSS

838.00Electoral Law/17: Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

[Paraphrase]

PORT AU PRINCE, *September 29, 1927*—2 p. m.

[Received September 30—10:35 a. m.]

128. President Borno has informed me that the law modifying electoral law has been passed, and that article 62 is included in these modifications.

In reply I reiterated Department's objections to article 62, and urged strongly its cancelation. The President said that at present this was impossible, but at last he said that he would enter into verbal agreement with me not to permit application of this article without conferring with me first and obtaining, in each case, an agreement. President stated furthermore that the article could be canceled next year, if so desired.

Should any question regarding application of article 62 arise, I shall make no agreement with President Borno without having first obtained Department's approval.

RUSSELL

OPPOSITION OF THE HAITIAN GOVERNMENT TO PROPOSED VISIT OF
SENATOR WILLIAM H. KING TO HAITI

033.1138/6: Telegram

The High Commissioner in Haiti (Russell) to the Secretary of State

PORT AU PRINCE, March 8, 1927—9 a. m.

[Received 5:30 p. m.]

10. President Borno has shown me a copy of a letter which reads as follows:

"United States Senate, Committee of the Judiciary, February 22nd, 1927.

Perceval Thorby; *Union Patriotique Comite Central*, Port au Prince, Haiti.

My Dear Mr. Thorby. I received your wire and your letter of recent date. I regret to learn of the unsatisfactory conditions in Haiti. I expect to sail for Haiti from New York on the 5th of March, visiting Porto Rico for a few days en route. I shall proceed from Porto Rico to Santo Domingo and then visit Haiti. It is my present intention to reach Port au Prince about the 15th of March. I desire to spend a few days in Haiti, studying conditions there.

I shall advise you before reaching Haiti the exact time of my arrival in your country.

With all good wishes, I am, sincerely yours, William H. King."

Yesterday a manifesto of the Union Central-South American [garbled group] urging a boycott of American goods was distributed here by the Patriotic Union of which Thorby is President.

[Paraphrase.] I have been advised by President Borno that he intends to inform the Department of State through the Haitian Minister in Washington of the visit contemplated by Senator King, whom he regards as a disturbing force, and that unless the Senator is visiting Haiti as the representative of the Senate, President Borno intends to request the Department of State to inform the Senator that his visit is not acceptable to the Government of Haiti. [End paraphrase.]

RUSSELL

033.1138/6: Telegram

The Acting Secretary of State to the High Commissioner in Haiti (Russell)

[Paraphrase]

WASHINGTON, March 9, 1927—6 p. m.

9. Your No. 10, March 8, 9 a. m. This morning Haitian Minister called at Department to make request outlined in your tele-

gram under reference and was informed that the Department of State was without authority to take any steps to interfere with proposed visit of Senator King to Haiti. If you think advisable you may inform President Borno to that effect, and add that Department has not been informed in any way by Senator King in regard to his plans, and that the visit contemplated has no official character. Department feels, furthermore, that should Government of Haiti carry out its expressed intention, effect would be unfortunate for all concerned and might react unfavorably on public opinion in this country. The Department feels that there is much more to be gained by letting Senator King obtain information at first hand of constructive benefits of the American occupation than if he were afforded an opportunity to assert that, by endeavoring to prevent his visit, an effort is being made to conceal the facts.

GREW

033.1138/9: Telegram

Senator William H. King to the Secretary of State

SAN JUAN, PORTO RICO, *March 12, 1927.*

[Received 9:50 a. m.]

Have arranged to start Monday for a brief visit to Santo Domingo and Haiti, visiting latter country to study results of American occupation with view to offering such measures in Congress as situation requires. Have received many communications from Haitians urging me to visit Haiti. In Senate I have urged legislation providing for constitutional convention in Haiti and for Haitians to take necessary steps to form and put into operation government of their own choice and have insisted upon withdrawal military forces. This has angered persons in control in Haiti. Have just received official notice that I am undesirable and that access to territory of Haiti is denied me. Knowing the relation of State Department to General Russell and the Borno regime I beg to be informed whether the State Department approves their action and whether it will aid in prohibiting a United States Senator by military force or otherwise from entering Haiti which is controlled by United States through its military forces or will immediately arrange, as it can, so that I may without interference visit Haiti for a few days to obtain information to aid me in the discharge of my official duties as Senator. Am compelled to leave here Monday, 14th instant, so beg immediate reply.

WILLIAM H. KING

033.1138/17a : Telegram

*The Acting Secretary of State to the Governor of Porto Rico
(Towner)*

WASHINGTON, March 12, 1927.

Please communicate the following information to Senator King in reply to his telegram of March 12th to the Secretary of State:

The Haitian Minister called at the Department on March 9, and requested that the Department inform Senator King that his proposed visit to Haiti would be unacceptable to the Haitian Government. The Department informed the Haitian Minister that it had no authority to interfere with his visit and immediately telegraphed to the High Commissioner at Port-au-Prince instructing him to inform President Borno to that effect and to say further that the Department felt that should the Haitian Government carry out its intentions with reference to Senator King the effect would be most unfortunate for all concerned. The Department felt that the Senator should be given an opportunity to acquire first-hand information with regard to the American Occupation.

Today the Department received a telegram from the High Commissioner²⁴ stating that he had informed President Borno of the contents of the Department's message and endeavored to persuade him to that point of view but that President Borno had replied that Senator King had expressed himself in offensive terms about President Borno's personality as Chief of State; that the Senator's presence in Haiti would be a cause for great political manifestation by opponents of the present administration and that the economic interests of the country would be materially affected by creating a feeling of insecurity. Accordingly President Borno had felt obliged to issue instructions to prevent the entrance of Senator King into Haiti.

The Department deeply regrets that the Haitian Government has found it necessary to adopt this attitude. However, the Department has to recognize that the Government of Haiti has jurisdiction over its own territory and that the right of any person to enter is one of those domestic questions for its own determination with which another country has no legal right to interfere and should it insist upon refusing entrance to Senator King the Department does not now see what further action it can take.

JOSEPH C. GREW

033.1138/18 : Telegram

The Chargé in Haiti (Gross) to the Secretary of State

PORT AU PRINCE, March 17, 1927—2 p. m.

[Received March 18—10:15 a. m.]

17. Haitian Minister to Santo Domingo has telegraphed to President Borno that Senator King has decided not to enter Haiti. The incident appears closed.

GROSS

²⁴ Not printed.

DISINCLINATION OF THE DEPARTMENT OF STATE TO SUPPORT THE
BRITISH GOVERNMENT IN CLAIMS AGAINST HAITI REJECTED BY
THE HAITIAN CLAIMS COMMISSION *

438.00/407

The High Commissioner in Haiti (Russell) to the Secretary of State

No. 950

PORT AU PRINCE, *February 15, 1927.*

[Received February 25.]

SIR: I have the honor to inform the Department that the British Government has appealed, through diplomatic channels to the Haitian Government, from decisions of the Claims Commission in three cases involving the claims of British subjects for destruction of property during revolutions in Haiti.

It appears that the Claims Commission established a policy of disallowing all claims based on destruction of property by revolutionary troops. This policy, while adhered to by the Commission, was not the unanimous opinion of the Commission.

I cannot help but believe that foreigners living in Haiti should be compensated for damages caused by successful revolutionists. However, as Judge Richard U. Strong, my Legal Adviser, states in the attached memorandum,²⁶ all foreigners should be treated alike in this respect and unquestionably favorable action by the Haitian State on the British claims would open the way for many other foreign claims.

I have [etc.]

JOHN H. RUSSELL

438.00/408

The British Ambassador (Howard) to the Secretary of State

No. 191

WASHINGTON, *March 16, 1927.*

SIR: I have the honour to refer to Sir Auckland Geddes' note No. 295 of May 12th, 1920,²⁷ and to previous correspondence regarding the Haitian Claims Commission and to inform you that His Majesty's Representative at Port au Prince has lately been instructed to present to the Haitian Government the claims of Mr. Barry, Mr. Pickering and Mrs. Basden, which His Majesty's Government regret their inability to consider as satisfactorily settled by the Claims Commission. These cases, with the details of which you are doubtless familiar, were for losses inflicted by Guillaume Sam in his successful revolt against General Devilmar Theodore and were disallowed by the Claims Commission not on the facts, which apparently were not in dispute, but on the ground that Governments are not responsible for the acts of suc-

²⁶ For previous correspondence concerning the Claims Commission, see *Foreign Relations*, 1923, vol. II, pp. 397 ff.; also *ibid.*, 1926, vol. II, pp. 413 ff.

²⁷ Not printed.

²⁸ *Foreign Relations*, 1920, vol. II, p. 829.

cessful revolutionists, a doctrine with which His Majesty's Government are unable to agree.

You will recollect from Sir Auckland Geddes' note abovementioned that when the Haitian Claims Commission was created His Majesty's Government reserved the right to present claims through the diplomatic channel if they were not satisfied with the awards of the Commission. In these circumstances, I am confident that the United States Government will take no action to deter the Haitian Government from recognising the three claims abovementioned. In order to avoid any possible misunderstanding, however, I should be grateful to receive at your convenience an assurance to this effect for communication to Sir Austen Chamberlain.

I have [etc.]

ESME HOWARD

438.00/408

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, April 2, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 191 of March 16, 1927, in which you state that your Government has instructed its representative at Port au Prince to present to the Haitian Government the claims of three British subjects which your Government is unable to consider as having been satisfactorily settled by the Claims Commission recently functioning in Haiti. You refer to a previous note from your Embassy wherein your Government reserved the right to present claims through the diplomatic channel if the awards of the Commission were unsatisfactory, and you request to be furnished with an assurance that the Government of the United States will take no action to deter the Haitian Government from recognizing the three claims in question.

As you are aware, the Commission which passed upon the pecuniary claims against Haiti was constituted pursuant to a protocol between the United States and Haiti ²⁸ made to assist in carrying out the purposes of the Treaty of 1915 ²⁹ which were, among others, to remedy the precarious condition of the revenues and finances of Haiti and to carry out plans for the prosperity of that Republic. In view of this situation and since this Government has faith in the good intent and sound judgment of the Claims Commission, it has declined to question the awards of that Commission although, in one or two instances, interested American citizens have requested the Department to take such action.

The Department had hoped that, in view of the fact that a British subject served as a member of the Commission during the considera-

²⁸ *Foreign Relations*, 1919, vol. II, p. 347.

²⁹ *Ibid.*, 1915, p. 449.

tion of British claims, your Government would consider as satisfactorily settled by the Commission the claims of British subjects submitted thereto.

The Department has no information as to whether the Haitian Government will seek its advice with respect to the recognition to be accorded the claims in question and, in the absence of complete knowledge as to the facts and circumstances attendant upon the claims and the decisions of the Commission thereon, is not prepared to state what reply it would make in the premises should its advice be sought.

Accept [etc.]

FRANK B. KELLOGG

438.00/409

The British Ambassador (Howard) to the Secretary of State

No. 241

WASHINGTON, April 8, 1927.

SIR: I have the honour to acknowledge the receipt of your note of April 2nd, regarding the claims of Mr. Barry, Mrs. Basden and Mr. Pickering against the Haitian Government. I note therefrom that "The Department has no information as to whether the Haitian Government will seek its advice with respect to the recognition to be accorded the claims in question and, in the absence of complete knowledge as to the facts and circumstances attendant upon the claims and the decisions of the Commission thereon, is not prepared to state what reply it would make in the premises should its advice be sought".

When I wrote before, I was under the impression that the State Department were familiar with the details of these claims as I had been informed by Mr. Edwards, His Majesty's Chargé d'Affaires at Port-au-Prince, that Dr. Cumberland, the Financial Adviser to the Haitian Government, was in communication with the State Department and had sought the views of the United States Government on the payment of revolutionary claims. Mr. Edwards advised me, furthermore, that Dr. Cumberland would be prepared to settle these claims through His Majesty's Legation at Port-au-Prince, should he obtain the authority of the United States Government to agree to the principle of payment of revolutionary claims.

From your letter under reference, I observe that the United States Government has declined in the past to question the awards of the Claims Commission, in whose good intent and sound judgment your Government has faith; and that, in the case of these claims, the Department had hoped that, in view of the fact that a British subject served as a member of the Commission during the consideration of the claims, His Majesty's Government would consider as satisfactorily settled the claims of British subjects submitted to the Commission and adjudicated upon by that body. In this connection, however, I

would venture to point out that Mr. Stoker, the British member of the Commission in question, registered a dissenting opinion in regard to the Commission's award on these claims, and for your information I enclose herein a copy of this dissenting opinion, together with a copy of Mr. Stoker's opinion in Claim No. 859, which deals fully with the same point.³⁰

Furthermore, as already stated in my note No. 191, I would repeat that His Majesty's Government have never agreed to the doctrine that Governments are not responsible for the acts of successful revolutionaries.

I have the honour to request, therefore, that you may be so good as to advise me at your early convenience of the attitude which the United States Government decide to adopt with regard to these claims.

I have [etc.]

ESME HOWARD

438.00/409

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, July 13, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of April 8, 1927, in further relation to the claims of three British subjects which your Government is unable to consider as having been satisfactorily settled by the Claims Commission, recently functioning in Haiti, and which it has instructed its representative at Port-au-Prince to present to the Haitian Government.

Contrary to your information in the matter, the claims in question have not been brought to the Department's attention by Dr. Cumberland, who, moreover, while nominated by the President of the United States, in accordance with the provisions of the treaty of 1915 between the United States and Haiti, for the position of Financial Adviser to the Haitian Government, was appointed to that position, also under the terms of the treaty, by the President of Haiti, and is an official of the Haitian Government.

In response to your request to be advised as to the attitude which the Government of the United States decides to adopt with regard to these claims, I may state that, as indicated in my note of April 2, 1927, the Department has no information as to whether the Haitian Government will seek its advice with respect to the recognition to be accorded the claims in question. Moreover, it would seem to me to be premature for the Department now to assume any attitude with regard to this matter, concerning which the Haitian Government may never seek its advice.

Accept [etc.]

FRANK B. KELLOGG

³⁰ Neither printed.

438.00/409

*Memorandum by the Assistant to the Under Secretary of State
(Phenix)*

[WASHINGTON,] November 7, 1927.

On Saturday, October 29, 1927, Sir John Joyce Broderick and Mr. Balfour of the British Embassy discussed with me informally the Department's note of July 13, 1927 in which in reply to a request for information as to the position of the Department should the British Government present to the Haitian Government on behalf of three of its subjects claims arising out of the acts of the successful revolution of Guillaume Sam, the Department after stating that it had no information as to whether the Haitian Government would seek its advice with respect to these claims added that it seemed to be premature for the Department now to assume any attitude with regard to the matter.

Sir John and Mr. Balfour remarked that they thought no good purpose would be served by addressing a further note to the Department in the matter, but that the Embassy would be glad to be informed of the reason why the Department was unwilling to express any view about the claims and whether any informal adjustment of the matter could be made. They pointed out that so far as they were aware, the United States had never agreed to the theory that a government was not liable for the illegal acts committed by successful revolutionists, and that as this had been the ground upon which the three claims in question were rejected by the Claims Commission, they felt that it might be possible for the Department to take a more sympathetic view of the matter. I said that I knew nothing whatsoever about the claims or their merit, but that I would be glad to look into the question and see what, if anything, could be done.

An examination of the files indicated that a note in reply to the British inquiry was drafted by Mr. Baker on or about May 14, 1927, and approved by Mr. Hackworth,³¹ the Latin American Division, the Western European Division and Mr. White.³² This draft note contained the following sentence:

"However if its advice should be sought, the Department, as at present informed, would be disposed to recommend to the Haitian Government that further consideration be given to the claims."

This draft was not sent and the note of July 13, 1927, contained no such assurance.

On inquiring from Mr. White the reason why the original draft had not been sent I learned that the Secretary had been unwilling to commit the Department to any statement which might lead to a reopening

³¹ Green H. Hackworth, Solicitor of the Department of State, and Joseph R. Baker, Assistant to the Solicitor.

³² Francis White, Assistant Secretary of State.

of claims against Haiti involving financial burdens beyond that Government's capacity. Accordingly, inquiry was made by the Department of the High Commissioner as to the total amount of claims which might possibly be presented against Haiti on account of damage done by the successful revolutionists but this information was not forthcoming, a despatch dated July 6, 1927,³³ stating that it would require four weeks to establish the exact number and amount of rejected claims for damages caused by the successful revolutionists, and that, furthermore, it would require the employment of a former Secretary of the Claims Commission. The Department did not authorize this work.

I spoke with Hackworth who agreed with me that so far as the questions of international law were concerned, there could be no doubt as to Haiti's liability for illegal acts by successful revolutionists, so that from the legal standpoint he was inclined to sympathize with the position of the British Government. Mr. White and Mr. Morgan³⁴ were also of the opinion that the Department was warranted in replying to the British inquiry along the lines of the unsent note of May 14, but in view of the fact that the matter had not been broached by the Haitian authorities and the further fact that the Department had declined in its note of July 13, 1927, to express any opinion, they felt with me that a formal communication to the British Embassy taking any different position from that already expressed would be inadvisable.

I suggested to Mr. White that I might informally explain the situation to Sir John or Mr. Balfour pointing out that the Department could not fail to be concerned were anything done to impair the stability of Haitian finances by raising at this time questions which might lead to the presentation by foreign governments of a vast number of claims on behalf of their nationals, and that its point of view was therefore necessarily colored by such a consideration. I suggested that I might say in addition that while the Department could not take formally any position other than that set forth in the note of July 13, 1927, it was willing to have it understood that it would interpose no objection to the consideration by the Haitian Government of the three claims in question provided (1) that the claims would be settled as indicated by the British Chargé at Port au Prince for not more than \$5,000; (2) that, as also indicated by the British Chargé, these three claims represented the only claims which the British Government would present; and (3) that their presentation, discussion and adjustment by the Haitian Government could be conducted with such discretion as to avoid any stirring up of the general claims question. I also suggested that coupled with the foregoing statement the warning should be given

³³ Not printed.

³⁴ Stokely Morgan, chief of the Division of Latin American Affairs.

that should the presentation by the British Government of these claims and a possible settlement thereof lead to the submission of claims by other governments, the Department would have to reconsider the matter in the light of the new circumstances in view of its interest in the financial stability of Haiti.

Mr. White saw no objection to this procedure, and after discussing the matter with him, Mr. Morgan and Mr. Hackworth, all of whom were willing to endorse the position taken in the Department's unsent note of May, I spoke to Mr. Olds⁸⁵ who authorized me to take the matter up with the Secretary.

Accordingly, I discussed the question with the Secretary this morning and obtained his approval to explain informally to the British Embassy the position of the Department as outlined above, and this afternoon I spoke with Mr. Balfour along the following lines:

The Department is of the opinion that it would be to the interest of all concerned to regard claims against Haiti arising out of the revolution as definitively settled by the Claims Commission. Its primary interest is in the financial stability of Haiti, and it believes that nothing should be done to impair that stability. It understands that there are claims of nationals of other Governments against Haiti arising out of circumstances similar to those involved in the claims in which the British Government is now interested, but it does not know the number or amount of such claims. So far as it is advised no other Government has sought to present such claims diplomatically after their rejection by the Claims Commission. In these circumstances the Department is unwilling to take any position with respect to the three claims mentioned by the British Embassy which would commit it, even by implication, to recognize the validity of an indeterminate number of similar claims if presented by other Governments. Its attitude in the matter is purely practical, and is not in any sense based upon concurrence in the conclusion of the Claims Commission that a Government is not liable for illegal acts done by successful revolutionists.

It is difficult to see how an adjustment of the three claims in which the British Government is interested could be effected without stirring up "sleeping dogs", a result which the Department feels would be unfortunate for every one concerned. With respect to the three claims listed in the British note of March 16, 1927, and previous correspondence, the Department understands that the British Chargé at Port au Prince has stated that he would settle for not more than \$5000, and that they represent all the claims in which the British Government is interested. Were the question before the Department one involving solely these three small claims, it would not hesitate to say that it would recommend reconsideration of the claims if its advice were

⁸⁵ Robert E. Olds, Under Secretary of State.

sought by Haiti, and even in the present circumstances it does not intend to take affirmative steps to discourage the Haitian Government from reconsidering these three claims if they should be pressed diplomatically. Furthermore, if settlement of these three claims could be effected without stirring up other claims, the Department would interpose no objection to such settlement, but it should be clearly understood that if the British Government presses these claims with the result that a considerable number of other similar claims are presented by other Governments on behalf of their nationals, a new situation would arise requiring the Department to re-examine the problem in all its aspects and with full freedom of action, my informal and oral discussion of the matter in no wise committing the Department or prejudicing its ultimate decision.

I concluded by repeating again that we felt that it would be advisable if all Governments should regard the claims question as settled by the Commission and should refrain from pressing diplomatically claims which had been rejected by the Commission, and that we would be pleased if the British Government should see eye to eye with us in this matter. I explained that the position taken in our note of July 13, 1927, was not based upon merit or lack of merit in the claims in question, but upon purely practical grounds. I said that Doctor Cumberland had discussed the matter with the Department when he was here last summer, and had expressed himself as fearful lest a flood of claims would be presented were these three claims settled.

Mr. Balfour said that the Embassy had not been able heretofore to understand why the Department had taken the position it had, but that my explanation made it perfectly clear, and he thought the considerations I had advanced were very potent. I told him that so far as we were concerned the correspondence was closed with our note of July 13, 1927. He said that he understood that, and it was for his Government to decide whether to go ahead with the matter in Haiti. He added that in all the circumstances he did not believe we would care to indicate to Doctor Cumberland that we would have no objection to the settlement of the claims, and I acquiesced in that inference.

The situation therefore remains as set forth in the Department's note of July 13, 1927, except that the British Embassy now understands (and sympathetically if Mr. Balfour's attitude is any criterion) the reasons which led the Department to take the position it did.

S[PENCER] P[HENIX]

BOUNDARY DISPUTE WITH THE DOMINICAN REPUBLIC

(See volume I, page 345 ff.)

HONDURAS

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND HONDURAS, SIGNED DECEMBER 7, 1927

711.152/1 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

[Paraphrase]

WASHINGTON, July 12, 1926—3 p. m.

25. Department's telegram numbered 38, September 20, 1923, 6 p. m. and Legation's telegram number 79, September 24, 1923, 10 a. m.¹

The Government of the United States would be pleased to begin negotiations with Honduras for a treaty of friendship, commerce and consular rights similar to the treaty between the United States and Germany signed December 8, 1923² (Treaty Series No. 725), and the treaty between the United States and Salvador, signed February 22, 1926.³

Inform the Department at once whether the Government of Honduras is now willing to begin negotiations for a treaty to supersede the treaty of 1864,⁴ as it was in September, 1923.

With reference to commercial provisions, the principle of the draft treaty which this Government would submit would be unconditional most-favored-nation treatment. If the Government of Honduras should be willing to begin negotiations, draft treaty and instruction will be sent to you at once.

KELLOGG

711.152/3 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, July 20, 1926—5 p. m.

[Received 9:28 p. m.]

44. Your 25, July 12, 3 p. m. The Minister for Foreign Affairs states that his Government is prepared to enter into negotiations for a treaty as proposed.

SUMMERLIN

¹ Neither printed.

² *Foreign Relations*, 1923, vol. II, p. 29.

³ *Ibid.*, 1926, vol. II, p. 940.

⁴ Treaty of friendship, commerce, and navigation, concluded July 4, 1864; Malloy, *Treaties*, 1776-1909, vol. I, p. 952.

711.152/3

The Secretary of State to the Minister in Honduras (Summerlin)

No. 77

WASHINGTON, July 28, 1926.

SIR: With reference to your telegram No. 44 of July 20, 1926, 5 p. m., and earlier correspondence concerning the negotiation of a treaty of friendship, commerce and consular rights between the United States and Honduras, there are enclosed herewith three copies of a draft of such a treaty.⁵ The copy which contains confidential comments explanatory of the provisions of the draft is solely for the use of the Legation and is not to be shown to any officials of the Honduran Government or to others. Of the copies which do not contain the explanatory comment, you will submit one to the Honduran Foreign Office; the other is for your convenience when discussing the provisions of the draft with officials of the Honduran Government.

The following statement is designed to make clear the position of this Government concerning the general features of the treaty, and respecting the various provisions thereof.

[Here follows a detailed explanation of the preamble and the 29 articles of the draft treaty, substantially the same as that contained in the Department's instruction No. 189, Aug. 6, 1925, to the Chargé in Salvador, printed in *Foreign Relations*, 1926, volume II, page 924, except that the paragraph dealing with article XI in the present instruction reads:

"The provisions of Article XI will explain themselves. You will of course observe that there is definite statement to the effect that the coasting trade of both parties is exempt from the provisions of the treaty. The addition of the last sentence is due to the possibility that either contracting party might yield coasting trade privileges of some character to foreign vessels. Hence that contingency is covered. It will be observed that the coasting trade is specifically reserved for national vessels by Article II of the treaty of July 4, 1864, between the United States and Honduras."]

In the treaty of friendship, commerce and consular rights signed by the United States and Salvador on February 22, 1926, certain provisions not contained in the enclosed draft were included in Article VII and Article XI at the request of the Government of Salvador.

At the end of Article VII an exception from the application of the stipulations in regard to most-favored-nation treatment was made as follows:

". . .⁶ or to the treatment which Salvador accords, or may hereafter accord, to the commerce of Costa Rica, Guatemala, Honduras, Nicaragua, and/or Panama, so long as any special treatment accorded to the commerce of those countries or any of them by Salvador is not accorded to any other country."

⁵ Not printed.

⁶ Omission indicated in the original instruction.

At the end of Article XI an exception from the application of the most-favored-nation treatment in regard to the coasting trade of Salvador was made as follows:

"...^a excepting that special treatment with respect to the coasting trade of Salvador may be granted by Salvador on condition of reciprocity to vessels of Costa Rica, Guatemala, Honduras, Nicaragua, and/or Panama, so long as such special treatment is not accorded to vessels of any other country."

This Government does not ask the Government of Honduras to include such provisions in the treaty herein proposed. You are instructed, however, to bring them to the attention of the Foreign Office, and to state that this Government will be glad to include similar provisions in the Treaty if Honduras so desires.

The treaty between the United States and Salvador is printed in the *Congressional Record* of May 28, 1926, the date on which the Senate gave its advice and consent to ratification, beginning on page 10241.⁷ The Treaty is not yet in force as an exchange of ratifications has not been effected.

Please report to the Department by telegram the date on which you submit the draft to the Honduran Foreign Office.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

711.152/5: Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, August 14, 1926—noon.

[Received 1:47 p. m.]

50. Department's instruction number 77, July 28. Draft of treaty was submitted to the Foreign Office this morning.

SUMMERLIN

711.152/8

Memorandum by the Assistant to the Solicitor (Barnes)

[WASHINGTON,] June 22, 1927.

Mr. George T. Summerlin, American Minister to Honduras, called on Mr. Barnes today.

Mr. Summerlin stated that the Honduran Government was willing to accept the draft of the Treaty of Friendship, Commerce, and Consular Rights as submitted to it pursuant to the Department's instruction No. 77 of July 28, 1926.

^a Omission indicated in the original instruction.

⁷ Bound volume, p. 10280.

He stated that Honduras desired to have exceptions added at the end of Article 7 in respect of commercial arrangements of Honduras with other Central American countries, and at the end of Article 11 in respect of coasting trade of the Central American countries, similar to the exceptions in respect of these two matters at the end of Article 7 and Article 11 respectively of the Treaty signed by the United States with Salvador on February 22, 1926. He pointed out that the Department had indicated on pages 12 and 13 of its instruction No. 77 of July 28, 1926, the willingness of this Government to agree to these two exceptions if the Government of Honduras desired them. Mr. Barnes informed Mr. Summerlin that the Department would include them in the treaty.

Mr. Summerlin stated that he had been over the Spanish text of the treaty between the United States and Salvador with the Honduran officials and that it was acceptable to them. He suggested, however, that it might be gone over by the Department's translator also.

Mr. Summerlin further stated that the Government of Honduras was not equipped to prepare the treaty for signature in the manner desired by the Department. He suggested that the Department prepare the English and Spanish text and the two copies in form for signature and send them to him. He said that he could then complete the negotiations and sign the treaty at Tegucigalpa pursuant to the Department's instructions and the full power which he now has. Mr. Summerlin stated that if this were not done there would probably be indefinite delay in having the treaty signed.

Mr. Barnes told Mr. Summerlin that he would take up the matter of having the text prepared as he suggested; that he thought the Department would follow the suggestion.

C[HARLES] M. B[ARNES]

711.152/8

The Secretary of State to the Minister in Honduras (Summerlin)

No. 181

WASHINGTON, August 16, 1927.

SIR: Following your interviews with officials of the Department on June 22, 1927,^s a comparison has been made of the text of the draft of the Treaty of Friendship, Commerce and Consular Rights under negotiation between the United States and Honduras with the treaty signed by the United States with Salvador on February 22, 1926.

The Department accepts the proposals that exceptions to the most favored nation treatment be added at the end of Article VII in respect of the treatment which Honduras accords or may hereafter

^s See *supra*.

accord to the commerce of other Central American countries and at the end of Article XI in regard to the treatment with respect to the coasting trade of Honduras which may be granted to vessels of other Central American countries, similar to the exceptions in respect to these two matters at the end of Article VII and Article XI, respectively, of the treaty signed by the United States with Salvador.

It is noted that the provisions of the treaty signed with Salvador and the draft under negotiation with Honduras differ slightly in Articles XIX and XXVI. Those articles in the draft and the treaty are as follows, the points of difference being underlined:

[For texts of articles XIX and XXVI which have been omitted, see the draft treaty submitted to Salvador in 1925 and the treaty signed with Salvador, *Foreign Relations*, 1926, volume II, pages 931 and 940.]

In explanation of these differences it may be said that the drafts submitted to Honduras and Salvador were identical and that the changes were made during the negotiations as a result of the acceptance by the United States of proposals made by Salvador.

The effect of the change in Article XIX is to give to consular officers not nationals of the State by which they are appointed as well as to consular officers who are nationals of such State, the right to address the authorities of the receiving State for the purpose of protecting the nationals of the appointing State. Under the provision of the original draft only the consular officers who are nationals of the appointing State would have this right. The revised provision is useful to a country which appoints others than its own nationals as consular officers.

The expression "although not exempt from the usual warehouse charges for storage and expenses" was inserted in the fourth sentence of the first paragraph of Article XXVI because the Salvadoran Government had some apprehensions that the term "custom house charges" contained in the sentence as originally drafted might be construed to embrace warehouse charges for storage and expenses and that therefore merchandise saved from wrecks would not be subject to them. The Department does not consider, however, that the term "custom house charges" could be construed to include warehouse charges for storage and expenses and therefore considers that the inclusion of the additional phrases effected no change in the meaning of the sentence.

The Department is willing to adopt Articles XIX and XXVI in the treaty with Honduras in whichever of the two forms the Government of Honduras may prefer.

The files of the Legation will show that in 1917 a draft convention to facilitate the work of traveling salesmen was submitted to

the Honduran Foreign Office and that negotiations in regard to this convention were pursued for about two years but that the convention was never signed. Such a convention was, however, concluded by the United States with eight Latin American countries, namely,—Costa Rica, Guatemala, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela.⁹ The provisions contained in these conventions are included as Article XIV of the Treaty of December 8, 1923 between the United States and Germany¹⁰ and in Article XI of the Treaty of June 24, 1925, between the United States and Hungary,¹¹ to which is added as Article XV of the Treaty with Germany and Article XII of the Treaty with Hungary, the Protocol to the Convention with Peru.¹² The Department of Commerce considers that with most countries it is preferable to include in the Treaty of Friendship, Commerce and Consular Rights a most favored nation clause in regard to commercial travelers, rather than to continue to use the detailed provisions concerning them in the treaties and conventions just mentioned. The most favored nation article relating to commercial travelers as finally drafted by this Department and now under negotiation with a number of countries is as follows:

ARTICLE

"Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory."

You will observe that the first paragraph of this article provides that commercial travelers representing manufacturers, merchants or traders domiciled in the territories of one of the contracting parties will be accorded the most favored nation treatment upon their entrance into, sojourn within and departure from the territories of the other party. The second paragraph covers the cases where a certificate of identity of a commercial traveler is required, stipulating

⁹ *Foreign Relations*, 1919, vol. I, p. 45.

¹⁰ *Ibid.*, 1923, vol. II, p. 29.

¹¹ *Ibid.*, 1925, vol. II, p. 341.

¹² Malloy, *Treaties*, 1910-1923, vol. III, pp. 2800, 2803; also printed as Department of State Treaty Series, No. 692.

that in such instances a statement signed by the concerns which he represents certified by a consular officer of the country of destination shall be accepted as satisfactory. The Department desires that you propose to the Honduran Government that this Article be included in the treaty now under negotiation. Under this Article Honduran commercial travelers in the United States would be entitled to the benefit of the provisions of Articles XI and XII of the Treaty of 1925 between the United States and Hungary, of Articles XIV and XV of the Treaty of 1923 between the United States and Germany and of the separate conventions relating to commercial travelers hereinabove listed so long as any of those treaties or conventions remain in force. It is to be noted therefore that Honduran commercial travelers in the United States will enjoy the same treatment under the most favored nation clause as they would enjoy if the detailed articles were included in the treaty under negotiation. The Department would be glad to receive from you a report on the treatment accorded to commercial travelers in Honduras by law or treaty to which American commercial travelers would become entitled under the most favored nation article. Two copies of the article in regard to commercial travelers hereinabove quoted are enclosed. If the Article is accepted by Honduras, it will be included in the Treaty as Article XI, Article XI of the present draft will be renumbered Article XII, and subsequent Articles will be renumbered accordingly.

There are also enclosed¹⁸ four copies of the Spanish text of the Treaty of Friendship, Commerce and Consular Rights signed by the United States and Salvador on February 22, 1926. On two copies are marked certain minor textual changes in Articles III, XI, XIV, XVII, and XX which the Department would be glad to have considered for adoption in the Treaty under negotiation with Honduras, and likewise certain necessary verbal changes in the Preamble, in the fifth paragraph of Article VII and in the reservations at the end of Articles VII and XI. The Department would be glad to have you furnish in collaboration with the Honduran Foreign Office, the Spanish text of the Article in regard to commercial travelers if the Honduran Government agrees to include that Article in the Treaty and the Spanish text of the fourth paragraph of Article XXVIII of the draft which provides for the termination of the Treaty of Friendship, Commerce and Navigation concluded by the United States and Honduras on July 4, 1864. Drafts of this Article and paragraph in Spanish are enclosed as of possible help in the preparation of a text satisfactory to the Honduran Government.¹⁸

Please indicate on one of the enclosed copies of the Treaty with Salvador all the changes which are required to make it correct as the

¹⁸ Enclosures not printed.

Spanish text of the Treaty under negotiation with Honduras as agreed to by you with the Foreign Office pursuant to this instruction and instruction No. 77 of July 28, 1926, including in the Preamble the name and titles of the Honduran plenipotentiary in the precise form in which it is desired to have them appear in the Treaty; and return the copy thus revised to the Department. On the receipt of your report on the questions hereinabove presented, the Department will have the texts of the Treaty prepared in final form in English and Spanish, as suggested at your conference on June 22 and will forward them to you for signature.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

711.152/9

The Minister in Honduras (Summerlin) to the Secretary of State

No. 442

TEGUCIGALPA, September 9, 1927.

[Received September 21.]

SIR: With reference to the Department's instruction No. 181 of August 16, 1927, in regard to the draft of the Treaty of Friendship, Commerce and Consular Rights under negotiation between the United States and Honduras, I have the honor to report that the Minister for Foreign Affairs of Honduras has accepted the wording of Article XIX of the Treaty with Salvador instead of Article XIX of the original draft with Honduras. The accepted article appears in the amended draft with Honduras as Article XX. Dr. Dávila, however, has accepted Article XXVI in the original draft with Honduras. This appears as Article XXVII in the amended draft with Honduras.

The Article containing a most favored nation clause in regard to commercial travelers has been accepted *in toto*, and appears in the amended draft with Honduras as Article XI. A report on the treatment accorded to commercial travelers in Honduras by law or treaty is under preparation and will be forwarded as soon as possible.

The minor textual changes in Articles III, XI, XIV, XVII and XX of the original draft—now articles III, XII, XV, XVIII and XXI of the amended draft—which the Department stated it would be glad to have considered for adoption in the Treaty under negotiation, and the necessary verbal changes in the Preamble, in the fifth paragraph of Article VII and in the reservations at the end of Articles VII and XI—Article XI of the original draft and No. XII of the amended draft—have all been accepted.

As instructed by the Department, I have indicated on the enclosed copy of the Treaty in Spanish with Salvador all the changes which

are required to make it correct as the Spanish text of the draft Treaty which has now been agreed to by the Honduran Minister for Foreign Affairs.

For the convenience of the Department, I am enclosing also a copy in English of the draft Treaty, which I believe conforms to the Spanish text.

I desire to invite attention to several minor changes in the Spanish text of the Article—new Article XI—in regard to commercial travelers.

I have explained to Dr. Dávila that upon receipt of this despatch the Department will have the text of the Treaty prepared in final form in English and in Spanish and will then forward them to the Legation for signature.

I have [etc.]

GEORGE T. SUMMERLIN

711.152/9

The Secretary of State to the Minister in Honduras (Summerlin)

No. 198

WASHINGTON, October 19, 1927.

SIR: In accordance with the suggestion contained in your No. 442 of September 9, 1927, the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Honduras has been prepared at the Department in form for signature and the two copies thereof are herewith enclosed.^{13a} The copy tied with red, white and blue ribbon is intended to be the United States original and should be signed by you first and forwarded to the Department by the first pouch after signature.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

711.152/10 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, December 7, 1927—2 p. m.

[Received 5:05 p. m.]

75. Department's number 198, October 19. The treaty was signed today.

SUMMERLIN

^{13a} See signed treaty, p. 101.

Treaty Series No. 764

*Treaty Between the United States of America and Honduras, Signed at Tegucigalpa, December 7, 1927*¹⁴

The United States of America and the Republic of Honduras desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America, George T. Sumnerlin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and

The President of the Republic of Honduras, Doctor Fausto Dávila, Minister for Foreign Affairs of the Republic of Honduras,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the

¹⁴ In English and Spanish; Spanish text not printed. Ratification advised by the Senate, May 25 (legislative day of May 3), 1928; ratified by the President, June 9, 1928; ratified by Honduras, June 15, 1928; ratifications exchanged at Tegucigalpa, July 19, 1928; proclaimed by the President, July 23, 1928.

local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes.

ARTICLE II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such na-

tional shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most

favorable nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal, or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Honduran vessels without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Honduras or are or may be legally exported therefrom in Honduran vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Honduran vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and

in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,¹⁵ or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws, or to the treatment which Honduras accords, or may hereafter accord, to the commerce of Costa Rica, Guatemala, Nicaragua, Panama, and/or Salvador, so long as any special treatment accorded to the commerce of those countries or any of them by Honduras is not accorded to any other country.

ARTICLE VIII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

ARTICLE IX

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of

¹⁵ *Foreign Relations*, 1903, p. 375.

treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

ARTICLE X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment, excepting that special treatment with respect to the coasting trade of Honduras may be granted by Honduras on condition of reciprocity to vessels of Costa Rica, Guatemala, Nicaragua, Panama, and/or Salvador, so long as such special treatment is not accorded to vessels of any other country.

ARTICLE XII

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a

commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory.

ARTICLE XIII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws. If such consent be given on the condition of reciprocity, the condition shall be deemed to relate to the provisions of the laws, National, State, or Provincial, under which the foreign corporation or association desiring to exercise such rights is organized.

ARTICLE XIV

The nationals of either High Contracting Party shall enjoy within the territories of the other reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no condition less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise

any of their functions therein, shall be governed by the laws and regulations, National, State or Provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XV

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVI

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the State which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers

of the other as present a regular commission signed by the chief executive of the appointing State and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this Treaty.

ARTICLE XVII

Consular officers, nationals of the State by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the State which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the State which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE XVIII

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State

within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XIX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the Government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XX

Consular officers of either High Contracting Party may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting the nationals of the State by which they are appointed in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may

justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the Government of the country.

ARTICLE XXI

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the High Contracting Parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XXII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXIII

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXIV

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XXV

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVI

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be

directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any custom house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXVIII

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

ARTICLE XXIX

Except as provided in the third paragraph of this Article the present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

The fifth and sixth paragraphs of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the High Contracting

Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty.

The present Treaty shall, from the date of the exchange of ratifications, be deemed to supplant, terminate and annul the Treaty of Friendship, Commerce and Navigation, concluded by the United States and Honduras on July 4, 1864.

ARTICLE XXX

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Tegucigalpa as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same and have affixed their seals thereto.

Done in duplicate, in the English and Spanish languages at Tegucigalpa, this seventh day of December, nineteen hundred and twenty-seven.

| | |
|--------|---------------------|
| [SEAL] | GEORGE T. SUMMERLIN |
| [SEAL] | F. DÁVILA |

SUPPLEMENTARY EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND HONDURAS, SIGNED FEBRUARY 21, 1927

211.15/46

The Secretary of State to the Minister in Honduras (Summerlin)

No. 89

WASHINGTON, September 17, 1926.

SIR: The Department has been informed by Mr. L. G. Nutt, Secretary of the Federal Control Board, that it would be very helpful if a convention providing for the extradition from Honduras of violators of the narcotic laws of the United States could be negotiated at this time in order that persons who have violated these laws and who are found in Honduras might be returned to the United States for trial.

As it appears that there are no treaty provisions covering crimes and offenses against the laws for the suppression of the traffic in narcotics or for infractions of the customs laws or ordinances which may constitute crimes, you are instructed to endeavor to negotiate an extradition convention with Honduras covering these subjects. Two copies of the Extradition Convention concluded between the United States and Honduras on January 15, 1909, are enclosed.¹⁶ The Department also encloses two copies of a Treaty concluded with

¹⁶ *Foreign Relations*, 1912, p. 619.

the Government of Cuba on January 14, 1926, containing provisions on these subjects.¹⁷ Copies of a draft of a convention with Honduras, in the English and Spanish languages, are enclosed.¹⁸

It is earnestly hoped that the Government of Honduras will promptly and favorably consider the matter so that if possible an agreement may be reached and a convention signed in time to be submitted to the Senate when it next convenes.

Please submit a complete report setting forth the action taken by you pursuant to this instruction.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

211.15/47 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, October 9, 1926—10 a. m.

[Received 2:20 p. m.]

60. Your instruction number 89, September 17th. The Minister for Foreign Affairs stated to me last evening that his Government agrees to the supplementary convention as submitted. I request full power and instructions.¹⁹

SUMMERLIN

Treaty Series No. 761

*Supplementary Extradition Convention Between the United States of America and Honduras, Signed February 21, 1927*²⁰

The United States of America and the Republic of Honduras, being desirous of enlarging the list of crimes on account of which extradition may be granted with regard to criminal acts committed in the United States of America or in the Republic of Honduras under the Convention concluded between them for the extradition of fugitives from justice, signed on January 15, 1909, have resolved to conclude the present Additional Convention and have appointed for this purpose as their respective plenipotentiaries:

The President of the United States of America: Mister George T. Summerlin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Honduras;

¹⁷ *Foreign Relations*, 1926, vol. II, p. 23.

¹⁸ Not printed.

¹⁹ Transmitted with Department's instruction No. 101, Oct. 20, 1926; not printed.

²⁰ In English and Spanish; Spanish text not printed. Ratification advised by the Senate, Mar. 14, 1928; ratified by the President, Mar. 22, 1928; ratified by Honduras, May 2, 1928; ratifications exchanged at Tegucigalpa, June 5, 1928; proclaimed by the President, June 7, 1928.

The President of the Republic of Honduras: Doctor Fausto Dávila, Minister for Foreign Affairs;

Who, having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

The following punishable acts are hereby added to the list of crimes numbered 1 to 21 in Article II of the Convention of January 15, 1909, that is to say:

21—Crimes against the laws for the suppression of the traffic in narcotic products.

22—Infractions of the customs laws or ordinances which may constitute crimes.

ARTICLE II

The present Convention shall be considered as an integral part of the aforementioned Extradition Convention signed January 15, 1909, and it is agreed that the offense of participation as an accessory before or after the fact, numbered 21 in the Convention of 1909, shall now be numbered twenty-three (23), and the offenses set forth in Article I hereof shall be numbered 21 and 22 respectively. The paragraph relating to participation "as an accessory before or after the fact," now renumbered 23, shall be applicable under appropriate circumstances to all the crimes and offenses now numbered 1 to 22 inclusive.

ARTICLE III

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the Government of the Republic of Honduras; and the ratifications shall be exchanged at Tegucigalpa as soon as possible.

This Convention shall take effect from the day of the exchange of the ratifications thereof; but either Contracting Party may at any time terminate the same on giving to the other six months notice of its intention to do so.

In witness whereof, the respective plenipotentiaries have signed the present Convention in duplicate in the English and Spanish languages and have thereunto affixed their seals.

Done at Tegucigalpa this 21st day of February in the year one thousand nine hundred and twenty seven.

[SEAL]

GEORGE T. SUMMERLIN

[SEAL]

F. DÁVILA

IRISH FREE STATE

**ESTABLISHMENT OF DIRECT DIPLOMATIC RELATIONS BETWEEN THE
UNITED STATES AND CANADA AND OF AMERICAN DIPLOMATIC
REPRESENTATION IN THE IRISH FREE STATE**

(See volume I, pages 481 ff.)

ITALY

DESTRUCTION OF THE HYDROPLANE OF COMMANDER DE PINEDO AT ROOSEVELT DAM, ARIZONA¹

865.3311/46

The Secretary of State to the Italian Ambassador (Martino)

The Secretary of State presents his compliments to His Excellency, the Royal Italian Ambassador, and has the honor to acknowledge the receipt of his note of March 14, 1927,² in which, referring to previous correspondence in regard to the proposed flight over United States territory of a Dornier hydroplane of the Italian Navy piloted by Commander F. De Pinedo, the Ambassador states that it is expected that Commander De Pinedo will arrive at New Orleans on or about March 24 and sets forth the proposed itinerary of the hydroplane.

In reply the Secretary of State has the honor to advise the Ambassador that copies of his note have been transmitted to the Federal Departments concerned and the Governors of the States mentioned therein with a view to the extension to Commander De Pinedo of the courtesies and facilities usual in such cases.

WASHINGTON, *March 19, 1927.*

865.3311/54

The Secretary of State to the Italian Ambassador (Martino)

WASHINGTON, *April 7, 1927.*

MY DEAR MR. AMBASSADOR: I have learned with the greatest regret of the unfortunate accident which has resulted in the destruction of Commander de Pinedo's seaplane at Roosevelt Dam, Arizona.

As you are aware, the War Department has offered to place either one or two airplanes, with suitable personnel, at the disposition of Commander de Pinedo in order to enable him to complete his flight over the United States in accordance with the schedule originally planned. However, I understand that Commander de Pinedo prefers to await the arrival of a new seaplane from Italy.

¹ For previous correspondence concerning the flight of Commander De Pinedo, see *Foreign Relations*, 1926, vol. II, pp. 445 ff.

² Not printed.

This Government has viewed with admiration the remarkable achievement of Commander de Pinedo and will be glad to do all in its power to enable him to resume his flight at the earliest possible moment. Accordingly, if you will be so good as to let me know when and where the new seaplane is expected to arrive in the United States and where Commander de Pinedo desires to have it assembled, I shall take pleasure in requesting the appropriate authorities to render him all possible assistance.

I am [etc.]

FRANK B. KELLOGG

865.3311/52 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, April 7, 1927—noon.

[Received 12:29 p. m.]

47. I have just telegraphed Mussolini expressing regret for the destruction of Pinedo's airplane. Associated Press will telegraph text.

FLETCHER

865.3311/64

The Ambassador in Italy (Fletcher) to the Secretary of State

No. 1211

ROME, April 8, 1927.

[Received April 20.]

SIR: I have the honor to report that the news of the destruction of Colonel De Pinedo's airplane, the "Santa Maria", at Roosevelt Dam day before yesterday caused, as was to be expected, a great sensation in Italy. In view of the delay involved in securing a prompt interview with Mussolini, I thought it best to send him a telegram expressing our regret that this accident should have happened in the United States. I telegraphed him as follows:

"The President, the Government and people of the United States have followed with growing interest and admiration the splendid record breaking flight of Colonel De Pinedo, undertaken and organized under Your Excellency's inspiration. I hasten to inform you that the entire American nation deeply and sincerely lament the destruction of the 'Santa Maria'. A thorough investigation is being made and if a cowardly crime has been committed the guilty will be discovered and severely punished. I regret that this should have occurred in my country, but I am convinced that this glorious flight which has been a wonderful augury for the future of world aviation, has simply been interrupted and will be resumed by the heroic Colonel De Pinedo who will finish it triumphantly and will be received everywhere with even greater enthusiasm. This attempt of fate or criminal folly will have only served to bring out in bolder relief the exceptional qualities of De Pinedo, who so worthily represents the virtues of the Italian race.

Neither mountains nor oceans will prevent his arrival at the goal. De Pinedo is not Icarus."

and immediately received his reply, of which the following is a translation:

"I have received with particular gratification the sentiments of cordial sympathy which Your Excellency in the name of the American nation and of yourself was good enough to express to me in connection with the loss of the 'Santa Maria'. The interruption in the flight of De Pinedo, which until now had been so happily conducted and which world aeronautics had followed with manifest interest strikes, in reality, a painful blow to the Italian people. While I share with Your Excellency the full confidence that De Pinedo, in spite of the occurrence, will be able to bring to a finish his titanic undertaking, I must express to Your Excellency that Italy, bound to America by the most profound ties of friendship, sees absolutely no connection whatever between the painful incident and the fact that it took place on American territory. I beg Your Excellency to act as the interpreter of these sincere sentiments of mine to the great American Nation and to accept the renewed expressions of my gratitude."

This exchange of telegrams was prominently featured in all the newspapers, as were the prompt offers of assistance made in Washington.

A new airplane of similar type is being rushed to the United States and Colonel De Pinedo will resume his flight as soon as it is received. I would suggest that all possible facilities be extended in connection with the despatch of this machine.

The extreme Fascist papers immediately assumed that the destruction of the "Santa Maria" was due to an anti-Fascist plot. While the facts, so far as known here, seem to me to indicate that such was not the case, I would, nevertheless, suggest that when Colonel De Pinedo resumes his flight a proper guard be afforded him and his machine at each stopping place. Were the anti-Fascist elements in the United States to be successful in wrecking a second machine or in injuring Colonel De Pinedo, the effect on public opinion here would be extremely adverse and our Government bitterly criticized. The *Tribuna* last night published extracts from manifestoes which have been issued in the United States, which emanate from anti-Fascist sources, and the former Deputy Vacirca is mentioned in this connection. One of the manifestoes is said to read as follows:

"De Pinedo is the messenger of Fascism. He is, therefore, our greatest enemy. Let him know that upon his arrival on American soil he will be given the reception he merits."

Another extract reads:

"We wish to say but a few, frank words: De Pinedo is a Fascist, a supporter of the Fascist régime."

The manifesto closes as follows:

"Italian workmen! Remember: Take part in all the receptions given in honor of De Pinedo and to glorify the Fascist monarchy. Take part and act. Demonstrate your solidarity with the martyred proletariat of Italy.

"Prepare yourself from now on to undertake this duty.

"The Anti-Fascist Alliance of North America, first in all conflicts, appeals to you to transform these receptions in honor of De Pinedo into demonstrations of indignation against the Fascist brigandage.

"Long live the proletariat of Italy!

"Long live movements directed against murderous Fascism!

"Long live the Anti-Fascist Alliance of North America!"

The secret service has probably already taken notice of the possibilities of some attempt against Colonel De Pinedo, but out of excess of caution I think it well to ask the Department to give this subject special attention.

I have [etc.]

HENRY P. FLETCHER

865.3311/56 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

WASHINGTON, April 8, 1927—4 p. m.

29. Press despatches indicate that Fascist newspapers are charging that the destruction of Pinedo's plane was a deliberate act of sabotage committed by anti-Fascists, using as their basis certain portions of your reported message to Mussolini including the phrases "criminal folly" and "cowardly crime".

Investigation reveals that the accident was caused by a lighted match carelessly dropped by an onlooker into oil-covered water surrounding the plane. Pinedo in an interview to the press states "In no way could the tragedy be connected with a plot against Fascism. It was purely an accident and I am sure my Government will regard it in no other light." The Department is asking the Italian Ambassador to give official confirmation of this statement both here and in Italy.

Please endeavor to dispel any misapprehensions which may have arisen in Italy as to the nature of this deplorable accident. You may inform the Italian Government that all governmental facilities here will be given to enable Pinedo to resume his flight at the earliest possible moment, and the Italian Ambassador has been so informed.

KELLOGG

865.3311/68

*Mr. S. E. Stretton, Substation Superintendent, to Mr. F. J. Paine,
District Sales Manager, Standard Oil Company of California*³

PHOENIX, ARIZ., April 8, 1927.

ITALIAN SEAPLANE "SANTA MARIA"

The following is a detailed report of the actual fueling of Commander De Pinedo's Seaplane at the Roosevelt Lake, April 6th:

The seaplane was sighted at Lake Roosevelt 10:14 a. m. and landed a few minutes later on the east side of the Lake. In your company the writer motored to the ship, took Commander De Pinedo aboard and returned to the landing, Apache Lodge. We showed the Commander our proposed method of fueling his ship and gave him his option of fueling from the boats or bringing his ship alongside the shore and fueling through a hose, direct from our tank truck which we had driven down an abandoned road and was approximately thirty-five feet above the water's edge. Commander De Pinedo was much elated at the method we proposed of fueling through a hose and decided it was the best plan of refueling.

The writer, accompanied by yourself, then returned to the seaplane which seemed to be having considerable difficulty "taxiing" to shore. They cut off their motors and signalled us alongside. We took them in tow and asked the assistance of another small out-board motor boat commanded by three young boys. The two boats then towed the seaplane to shore.

A funnel was placed in the right pontoon and the writer climbed aboard and held our hose, (which was directly connected to our tank truck), in the funnel. George Miller was at the faucet of the tank truck. Mr. Sayer from our Home Office remained with Mr. Miller during the refueling. Mr. Arnold from our Home Office stood at the right wing of the monoplane and steadied it. He remained at this point until fire broke out.

While the writer was holding the nozzle of our fueling hose in the funnel, the Italian mechanic came from inside the ship with a copper 1-gallon oil funnel and placed it under the hose in the funnel and filled it with gasoline. He washed the measure, then threw the gasoline overboard alongside the pontoon. He filled the funnel again and poured some on his hand in an attempt to determine the quality of the fuel being received; a portion of this was also thrown overboard. He then went below ship.

³ Copy transmitted to the Under Secretary of State by Mr. Philip H. Patchin, assistant to the president of the Standard Oil Company of California, in a letter dated Apr. 14, 1927; not printed.

We filled the tanks on the right pontoon and the writer then climbed aboard the left pontoon, keeping the hose in hand at all times—not a drop of gasoline was spilled. We then filled the left pontoon. During the fueling the pilot made frequent trips below and advised the writer each time just how much fuel was passing into the tanks. From the pilot's conversation the tanks were evenly filled and not too full. The funnel was removed and the caps put on and tightened with a wrench by the ship's mechanic. Our hose was then pulled across and loaded on our truck and faucets locked. The writer left the ship at this point and climbed the bank to our truck.

The writer was standing beside the truck, accompanied by Mr. Howe, Special Agent at Miami, Mr. Ewing, Special Agent at Globe, Mr. George Miller, driver of the truck, Mr. Arnold, of the Home Office and others, when the pilot came from the left pontoon with a large water bucket filled with liquid and stated "Who wants some gasoline?" Nobody answered so he threw it on the water between the two pontoons and down next to the motor boat which we used to tow him ashore. He went below again and immediately returned with another bucket of gasoline and threw that overboard at approximately the same place. The writer did not see the third bucket of gasoline but Mr. Arnold did. In all, three buckets of gasoline were thrown between the two pontoons aside from that thrown from the copper measure as mentioned above.

When this gasoline was thrown on the water, Mr. Miller immediately suggested that we get the truck away as someone might throw a match near the water. He then started the truck and the parties mentioned above were assisting him in guiding him up the old road when we hit a soft place and the truck stuck and we were unable to move it further. Mr. Miller suggested the removal of the governor in order to have more power. This was okehed and he was in the act of doing this when someone shouted "fire." The writer turned immediately, saw the pilot rush out the right wing and dive into the water. He made no effort whatever to combat the flames. The ship's mechanic jumped from the front of one of the pontoons. Mr. Miller and the writer took the fire extinguishers from the truck and ran down the bank in an effort to stop the flames. The Pyrene was taken from the writer by yourself and you immediately boarded the ship, followed closely by Mr. Miller, Mr. Howe and the Apache Lodge cook. All was done that was possible but the flames had gained too much headway as the gasoline thrown upon the water had covered a great area and had set the hydroplane afire at many places.

During the actual fueling of the hydroplane the writer cautioned all those ashore regarding smoking and lighting matches. No smok-

ing was done during the fueling of the ship. The writer did not feel, however, that he should take full command of the situation after we had finished fueling.

We delivered 212 gallons in approximately forty minutes, finishing this work between twenty and fifteen minutes of twelve. The fire broke out at five minutes past twelve o'clock. We had billed the products and received check from Commander De Pinedo and cleared our truck away before fire started.

From the writer's viewpoint, the blame should be placed solely upon the crew of the Italian seaplane.

865.3311/57: Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, April 9, 1927—11 a. m.

[Received April 9—10:30 a. m.]

51. Your 29, April 8, 4 p. m. Press despatches put the cart before the horse. The Fascist newspapers immediately attributed the accident to an anti-Fascist plot; hence my alternative reference to possible sabotage, promising thorough investigation. It was necessary and had a good effect. Now, however, in the light of Pinedo's statement which has been published here it is generally understood that there was no anti-Fascist connection.

FLETCHER

865.3311/73: Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

ROME, June 17, 1927—noon.

[Received June 17—9:05 a. m.]

82. Have addressed letter to Premier Mussolini today extending congratulations in the name of the President and the people of the United States on De Pinedo's return from his air voyage.⁴

FLETCHER

ACTIVITIES OF UNIFORMED FASCIST ORGANIZATIONS IN THE UNITED STATES

811.00F/40

The Ambassador in Italy (Fletcher) to the Secretary of State

No. 1442

ROME, October 24, 1927.

[Received November 9.]

SIR: I have the honor to transmit herewith, in copy and translation, a front page statement taken from the October 1st Number of

⁴ Commander De Pinedo had continued his flight in another plane sent from Italy.

Giovinezza, the Official Bulletin of the Fascist League of North America, which contains the text of the oath now administered to those who become members of the Fascist League of North America. Commendatore Cornelio di Marzio, the Secretary General of the "Fasci all 'Estero" (the Fascist Headquarters abroad), who brought me this copy of *Giovinezza*, has explained to me that the oath was written by the Fascist League of North America and is used exclusively by that organization and not by the "Fasci all 'Estero". He said that, in his opinion, there could be no criticism on the part of the "Fasci all 'Estero" in case the American Government should deem it advisable to raise objections to the administration of this oath by the Fascist League of North America in the United States. The Department no doubt knows that the "Fasci all 'Estero" is the official Italian organization for the spread of Fascist propaganda abroad whereas the Fascist League of North America is the work of Italians who reside in the United States and is a purely local organization, incorporated under the laws of the state of New York, and of which Thacon de Revel is the leading spirit.

From the instructions to Fascists living abroad which are to be found in the Bulletin (No. 1) of the "Segretaria Generale dei Fasci all 'Estero e Nelle Colonie" (Secretariat General of the Fascist Headquarters Abroad and in the Colonies), a copy of which is enclosed herewith,⁵ it would appear that this organization desires to show a proper regard for the rights of foreign nations over such Italians as reside within their frontiers. For example, Circular No. I/G of February 18, 1923 states that:

"Fascists abroad must never forget that they are guests of a foreign country and that they must conduct themselves accordingly. The most absolute observance of the laws of the country of residence and of the rules and regulations of the Party are the essentials of a Fascist who desires to be worthy of the name."

In this connection I attach a translation of a speech of the Prime Minister Mussolini which was made for reproduction by the Movietone or speaking motion picture film in the United States of America, the text of which appears in the article referred to. The Department will recall that the brief statement which I made before the Movietone early in May of the present year (see my despatch No. 1250 of May 6, 1927) ⁵ was an introduction to this speech of the Prime Minister.

I have [etc.]

HENRY P. FLETCHER

⁵ Not printed.

[Enclosure—Translation]

Extract from "Giovinezza," Official Bulletin of the Fascist League of North America, for October 1, 1927

TO CLEAR AWAY ALL DOUBTS

In the face of useless criticism and bitter calumnies Secretary of Labor J. Davis has denied the statements attributed to him and proclaimed that membership in the Fascist League of North America is not an obstacle to the acquisition of American citizenship. At the same time Commissioner General Crist has declared himself to be opposed to the stand taken by Examiner Thomas. Now the words of the Duce, so timely, clear, and precise are being conveyed to the American people through the medium of the Movietone. These words should be sufficient to reassure honest men and to cut short the idle speculations of dishonest ones.

The following is the message of the Head of the National Government to the American people:

"In addressing both a great though distant people and its Ambassador who stands nearby and who is so worthy to represent that people, I am happy once more to declare my friendship for the American Nation.

"An intelligent and alert Ambassador like His Excellency Mr. Fletcher easily notices every phase in the development of international friendship. His perception must already have convinced him of the constant sympathy and sincere admiration felt by all Italians for his country.

"I also desire to pay tribute to Mr. Fletcher for having brought about this warmth of feeling. He is a symbol to Italy of the Starry Republic. He has kept alive in our hearts that warm feeling of friendship.

"The friendliness with which Italy regards the 220,000,000 [120,000,000] residents of the United States, from Alaska to Florida and from the Pacific to the Atlantic, will be a permanent feeling. Born of an instinctive sympathy, strengthened by common bonds of interest and by a War fought and won together, this friendship constitutes an unchangeable bond between two nations, one of which is young while the other is bursting with a new life. Both nations are preparing energetically for the great future which awaits them.

"While I greet the energy of the American people, I see and recognize among you, children of your land and ours, my compatriots who are working with you for the greatness of America. Once more I request those distant children of ours to preserve a double sense of honor: respect for the great land which affords them hospitality and for the prestige of the great land of their birth.

"I now send my greetings to the great American people who are the incarnation of the spirit of initiative, zeal, and strength. I also greet their worthy and noble Government, their distinguished Ambassador here present, and finally the Italians of America who are both uniting our two countries with bonds of affection and honoring both by their work."

We give below the full text and translation^{*} of the only oath which the Fascist League of North America requires its members to take in consequence of the deliberations of the Congress held in Philadelphia in 1925. It is very clear:

I Swear Upon My Honor

To serve with loyalty and discipline the Fascist Idea of Society based upon Religion, Nation and Family, and to promote respect for Law, Order and Hierarchy, and for the Tradition of the Race.

To love, serve, obey and exalt the United States of America and to teach obedience to and respect for its Constitution and laws.

To keep alive the veneration for Italy as our country of origin and as the eternal light of civilization and greatness.

To fight with all my strength the theories and ideas aiming to subvert, corrupt or disintegrate Religion, Love of Country, and Family.

To make all efforts to better my culture and myself, physically and morally, so as to deserve to belong to those who serve and guide the Nations in the greatest moments.

To be disciplined to the hierarchies of the Fascisti League of North America.

811.00F/41

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Italian Ambassador (Martino)

[WASHINGTON,] November 26, 1927.

The Italian Ambassador called this morning to report his presence in Washington. He told me that he had had several opportunities to discuss in Rome the various actions of the Fascists in this country and that Mr. Mussolini was very angry at many of the things that were happening and said that many of the Fascists were acting as fools. Mussolini issued an order to all Fascist organization[s] throughout the world, telling them that under no circumstances were they to march in Fascist uniforms in foreign countries even though they had come to an agreement with the local authorities permitting this. The Ambassador pointed out that it might well be that many of the Fascist organizations in the United States were made up of American citizens who would not follow the orders from Rome, but would insist, after agreement with the local authorities, in marching in uniform. He wanted me to know that, if this was done, it was absolutely contrary to the advice of the Government.

W[ILLIAM] R. C[ASTLE]

^{*} The Italian text and English translation of the oath appeared in parallel columns. The Italian text is not printed.

REPRESENTATIONS BY THE ITALIAN AMBASSADOR REGARDING
NEWSPAPER ATTACKS IN THE UNITED STATES AGAINST THE
ITALIAN GOVERNMENT

811.918/197

The Italian Ambassador (Martino) to the Secretary of State

The Italian Ambassador presents his compliments to His Excellency the Secretary of State and has the honor to bring the following to his attention.

The weekly paper *Il Martello* of New York (77 East 10th Street) edited by the American citizen Carlo Tresca, has published under the signature of Giuseppe Altieri the article here enclosed.⁷ This article contains the most vulgar and virulent attack against His Majesty the King of Italy and excites its readers to the assassination of the King.

The Italian Ambassador feels that this publication is not only an insult to the Chief of a nation which entertains the most cordial and friendly relations with the United States of America, but represents a criminal activity because it is beyond any doubt that encouragement to murder is a crime.

The Italian Ambassador will therefore be grateful to His Excellency the Secretary of State if he will inform him about the measures which, under the circumstances, the American Government will think it advisable to adopt against *Il Martello*.

WASHINGTON, April 11, 1927.

811.918/204

*The Italian Ambassador (Martino) to the Assistant Secretary of
State (Castle)*

WASHINGTON, 14 July, 1927.

MY DEAR MR. CASTLE: A few days ago I wrote to you a long letter⁷ concerning the publication of indecent articles against H. M. the King of Italy in some radical papers of New York.

Here enclosed I am sending you a translation of an article which appeared in the issue of July 10th of the *Nuovo Mondo* an Italian newspaper of New York.⁷

The article contains, among other indecent expressions, a threat of assassination which is, in my belief, a clear encouragement to crime.

I feel that it is my duty to submit this case to your attention because it seems to me that instigation to commit murder, especially against the Head of a foreign Government, is a crime in itself.

Believe me [etc.]

G. DE MARTINO

⁷ Not printed.

811.918/197

The Secretary of State to the Italian Ambassador (Martino)

The Secretary of State presents his compliments to His Excellency, the Royal Italian Ambassador, and has the honor to acknowledge the receipt of his note of April 11, 1927, regarding an article attacking His Majesty, the King of Italy, and published in the April 2, 1927 issue of the newspaper *Il Martello*.

Upon the receipt of the note under acknowledgment, the text of the article in question was referred to the appropriate authorities of this Government for an opinion as to whether its publication constituted an offense under any Federal Statute and as to whether it could be sent through the United States mails.

The Secretary of State is now in receipt of opinions from these authorities⁹ according to which the article is not unmailable under the laws governing the use of the United States mails, and its publication does not constitute an infringement of any Federal Statute.

The text of the article was accordingly referred to the proper authorities of the State of New York¹⁰ for an opinion as to whether it is actionable under any of the Statutes of that State. Upon receipt of the final reply the Secretary of State will not fail to communicate the substance thereof to His Excellency, the Royal Italian Ambassador.¹¹

WASHINGTON, July 19, 1927.

811.918/204

The Assistant Secretary of State (Castle) to the Italian Ambassador (Martino)

WASHINGTON, July 29, 1927.

MY DEAR MR. AMBASSADOR: I have received your letter of July 14, 1927, in which you enclose translation of an article published in the July 10, 1927, issue of the New York newspaper *Nuovo Mondo*, attacking His Majesty the King of Italy.

I desire to express to you my regret that any newspaper published in this country should have so little regard for good taste and international courtesy as to print such material.

At the same time I do not think that, in the present instance, there would be any likelihood of successful prosecution under our laws.

Very sincerely yours,

W. R. CASTLE, Jr.

⁹ Not printed.

¹⁰ Correspondence with authorities of New York State not printed.

¹¹ No final reply from the authorities of the State of New York appears in Department files.

811.918/208

The Italian Ambassador (Martino) to the Assistant Secretary of State (Castle)

WASHINGTON, January 4, 1928.

MY DEAR MR. CASTLE: I have, on several occasions, and recently in my letter of July 14th, called your attention on articles published by some Italian radical papers in New York which contain excitement to commit crimes against His Majesty the King of Italy and members of the Italian Government.

I now find in the issue of December 8th of *Il Nuovo Mondo* an editorial which concludes with the paragraph here below translated:

"The murderous dictatorship has completely lost its head. So much the better. The day of Nemesis is drawing even nearer. More victims are torn from the homes of Italy, more crimes committed, more lead added. But the sad experiment is at the end of its arc. It is true that its impulse, its weight, becomes stronger, but the end is near. We feel it in the spasmodic thirst for vengeance which calls for more blood. Yes, more blood. But, out of that blood, how much salutary fruit for the Italian people!"

As I did on similar occasions, I feel that it is my duty now to submit this case to your attention because it seems to me that instigation to commit murder, especially against the Head of a foreign Government, is a crime in itself.

Believe me [etc.]

G. DE MARTINO

811.918/208

The Assistant Secretary of State (Castle) to the Italian Ambassador (Martino)

WASHINGTON, January 12, 1928.

MY DEAR MR. AMBASSADOR: I have received your letter of January 4, 1928, in which you call my attention to the translation of an article stated to have been published in the December 8, 1927 issue of *Il Nuovo Mondo*, attacking the Italian Government.

I deeply regret that any newspaper published in this country should permit the political opinions of its staff regarding the conduct of a foreign Government to be publicly expressed in the foolish and intemperate language reproduced in your note under acknowledgment.

I have, however, no option but to point out that, as in the previous case mentioned by you, there would be no likelihood, under our existing laws, of successful prosecution in the instance now quoted by you.

Very sincerely yours,

W. R. CASTLE, Jr.

JAPAN

CONSIDERATION OF INFORMAL PROPOSAL FOR LOAN BY AMERICAN BANKERS TO THE SOUTH MANCHURIA RAILWAY

(See volume II, pages 482 ff.)

LATVIA

AGREEMENT BETWEEN THE UNITED STATES AND LATVIA REGARDING MUTUAL RECOGNITION OF SHIP MEASUREMENT CERTIFICATES

860P.855/8

The Minister in Latvia (Coleman) to the Secretary of State

No. 4934

RIGA, December 12, 1927.

[Received December 28.]

SIR: I have the honor to refer to the Department's Instruction No. 459, of August 29, 1927 (File No. 860P.855/4), to the Legation's telegram, No. 64, of November 5, 1927, and to the Department's telegram No. 33, of November 15, 1927,¹ regarding the acceptance of the admeasurements of vessels of Latvia and the United States by the officials of the other country, and to enclose copies of the notes exchanged on this subject between the Legation and the Latvian Ministry of Foreign Affairs.

I have [etc.]

F. W. B. COLEMAN

[Enclosure 1]

The American Minister (Coleman) to the Latvian Minister for Foreign Affairs (Cielens)

RIGA, September 30, 1927.

EXCELLENCY: Referring to Your Excellency's note No. 13781, of June 28, 1927,² enclosing copies of an English translation of the rules and regulations based on the Latvian admeasurement laws, I now have the honor to inform Your Excellency that the rules set forth in the translation have been compared with those of the United States and the two have been found to be substantially in accord. My Government therefore is prepared to issue the necessary instructions for the recognition of the tonnages set forth in the registers or other national papers of Latvian vessels as measured under the aforesaid rules as the

¹ None printed.

² Note not found in Department files; copies of the rules and regulations were transmitted to the Department in despatch No. 4582, July 1, 1927, from the Minister in Latvia. (File No. 860P.855/3.)

tonnage of the vessels, so that it will not be necessary for such vessels to be remeasured at any port in the United States.

The issuance of such instructions is conditioned upon a similar recognition being accorded by the Latvian Government to the certificates of registry or other national papers of American ships. Upon receipt of a note from Your Excellency stating that the Latvian Government has issued the necessary instructions for the recognition of the certificates of registry or other national papers of vessels of the United States, together with the date upon which such instructions become effective, my Government will issue appropriate instructions for the recognition of papers of Latvian vessels.

I avail myself [etc.]

[File copy not signed]

[Enclosure 2]

The Latvian Minister for Foreign Affairs (Cielens) to the American Minister (Coleman)

No. R.603/24/23873

RIGA, 3 November, 1927.

EXCELLENCY: Referring to Your Excellency's note of September 30, 1927, stating that the existing laws and regulations in the territories of the United States in regard to measurement of tonnage of merchant vessels are in substantial agreement with these of Latvia, I now have the honor to inform Your Excellency that my Government is issuing the necessary instructions for the recognition of the tonnages set forth in the registers or other national papers of American vessels as the tonnage of the vessels, so that it will not be necessary for such vessels to be remeasured at any port in Latvia. The instructions become effective as of November 15, 1927.

The above instructions are issued on condition that similar terms shall be accorded to Latvian ships equipped with certificates of registry or other national papers duly issued by the competent Latvian authorities on or after the 4th June, 1925, and that such ships shall be exempted from being remeasured at any port in the United States.

I avail myself [etc.]

F. CIELENS

[Enclosure 3]

The American Minister (Coleman) to the Latvian Minister for Foreign Affairs (Cielens)

RIGA, November 17, 1927.

EXCELLENCY: With reference to Your Excellency's Note of November 3, 1927, stating that the Latvian Government has issued instructions providing for the recognition of the tonnages set forth in the

registers or other national papers of American vessels, I have the honor to inform Your Excellency that I have been advised by my Government that on November 9, 1927, the appropriate American officials were instructed to accept in ports of the United States the admeasurement of Latvian vessels which carry certificates of registry or other national papers duly certified on or after June 4, 1925, by competent Latvian authorities, as denoting the tonnage of such vessels.

I avail myself [etc.]

[File copy not signed]

LIBERIA

ASSUMPTION BY THE DEPARTMENT OF STATE OF FUNCTIONS ALLOTTED TO IT IN AGREEMENTS BETWEEN THE FIRESTONE INTERESTS AND THE LIBERIAN GOVERNMENT¹

882.51/1926

Messrs. Shearman & Sterling to the Secretary of State

NEW YORK, January 28, 1927.

SIR: We are informed that there is shortly to be submitted to you by the Republic of Liberia an executed counterpart of a Loan Agreement, dated September 1, 1926, between the Republic of Liberia, the Finance Corporation of America, and The National City Bank of New York, as Fiscal Agent, with the request to be informed whether the Department of State of the United States will undertake the obligations imposed upon it by this Agreement.²

In the event that your reply is in the affirmative, the Finance Corporation of America and the Fiscal Agent, as the other two parties to the Agreement, will greatly appreciate being so informed by you.

Respectfully,

SHEARMAN & STERLING

*Attorneys for Finance Corporation of America and
The National City Bank of New York as Fiscal Agent*

882.51/1926

The Acting Secretary of State to Messrs. Shearman & Sterling

WASHINGTON, March 3, 1927.

SIRS: The receipt is acknowledged of your letter of January 28, 1927, concerning the submission to the Department, by the Republic of Liberia, of an executed counterpart of a Loan Agreement between the Republic of Liberia, the Finance Corporation of America, and the National City Bank of New York, as Fiscal Agent, with a request on the part of the Liberian Government to be informed whether the Department of State of the United States would undertake the obligations imposed upon it by this Agreement. You ask that the Finance Corporation of America and the Fiscal Agent, as the other two parties to

¹ For previous correspondence concerning these agreements, see *Foreign Relations*, 1926, vol. II, pp. 503 ff.

² For text of the agreement, see *ibid.*, p. 574.

the Agreement, be notified of the decision of this Government in the matter.

In reply, you are informed that the Department has received the Agreement in question from the hands of Mr. Sidney de la Rue, Receiver General of Customs and Financial Adviser of the Republic of Liberia, together with a note from the Secretary of State of the Republic of Liberia,³ advising the Department of the approval by the Legislature of Liberia of the Loan Agreement and requesting that this Government undertake the obligations allotted to it by the Agreement.

The Department has instructed the American Legation at Monrovia to acknowledge the receipt of the note and of the copy of the Agreement, stating that it is the understanding of this Government that the approval of this Agreement by the Liberian Legislature now enables the Liberian Government to take such measures as may be necessary for the retirement of the bonds issued under the 1912 Loan Agreement,⁴ under which this Government performs certain functions analogous to those contemplated under the present Agreement, and to inform the Liberian Government that this Government, upon the extinguishment of the 1912 Loan, will be glad to assume the responsibilities allotted to it by the terms of the present Agreement.

It appears from the Agreement of September 1, 1926, between the Government of Liberia and the Finance Corporation of America that the Government of Liberia has hypothecated for the service of the loan to be made pursuant to that Agreement the same revenues as are hypothecated by the Agreement of March 7, 1912, between the Liberian Government and certain bankers. The Liberian Government will readily appreciate that the Department could not appropriately consent to participate in any action under the new Agreement which would have the effect of transferring the revenues hypothecated under the Agreement of 1912 to the service of the loan made pursuant to the new Agreement, so long as any of the bonds issued under the Agreement of 1912 remain unpaid. The transfer of the revenue from the service of the 1912 loan to the service of the new loan, so long as any of the 1912 bonds remain unpaid would entail a violation by the Liberian Government of the Agreement of 1912 to which the parties to the 1912 Agreement and the holders of the 1912 bonds could appropriately object, as might also the Governments of Great Britain and France, which are involved in the 1912 Agreement, as is the Government of the United States. Therefore, until the 1912 bonds are called in, the Department will be unable to recommend to the President that he take any action under

³ *Foreign Relations*, 1926, vol. II, p. 573.

⁴ See *ibid.*, 1912, pp. 667 ff.

the new Agreement, except to the extent that such action may be taken consistent with the terms of the 1912 Agreement.

It is the intention of the Department to recommend to the President that he designate Mr. Sidney de la Rue as Financial Adviser under the new Agreement as soon as the 1912 bonds have been called and the Department understands that Mr. de la Rue is making provisional arrangements for the selection of the financial officers envisaged in the new Loan Agreement and that these nominations will be made formally and officially as soon as Mr. de la Rue is appointed under the new Agreement.

The American Legation at Monrovia has further been instructed to explain the position of this Government so that there may be no uncertainty or misunderstanding as to the implications of the new Agreement so far as they affect this Government, and to assure the Liberian Government of the willingness of this Government to co-operate in effecting the substitution of the new Agreement for the Loan Agreement of 1912.

The Department takes pleasure in repeating to the Finance Corporation of America and to the National City Bank of New York, as Fiscal Agent, the other two parties to the Agreement, the assurances given the Liberian Government.

I am [etc.]

JOSEPH C. GREW

882.51/1925

The Acting Secretary of State to the Chargé in Liberia (Wharton)

No. 334

WASHINGTON, March 4, 1927.

SIR: The Department has received from the hands of Mr. Sidney De la Rue, Receiver General of Customs of the Republic of Liberia, a note dated December 9 from the Liberian Secretary of State,⁵ advising the Department of the approval by the Legislature of Liberia of the Loan Agreement between the Government of Liberia and the Finance Corporation of America, transmitting a certified copy thereof, and requesting that this Government undertake the obligations allotted to it by the Agreement.

You are instructed to address the following note to the Secretary of State of Liberia and to present it in person:

"I have the honor to inform you that I am instructed by my Government to acknowledge to you the receipt of your note of December 9 addressed to the Secretary of State of the United States, advising him of the approval by the Legislature of Liberia of the Loan Agreement between the Republic of Liberia and the Finance Corporation of America, and transmitting a certified copy thereof.

"You request, on behalf of your Government, that my Government undertake certain obligations as defined in the instrument under reference.

⁵ *Foreign Relations, 1926*, vol. II, p. 573.

"It is the understanding of my Government that the approval of this Agreement by the Liberian Legislature now enables the Liberian Government to take such measures as may be necessary for the retirement of the bonds issued under the 1912 Loan Agreement, under which my Government performs certain functions analogous to those contemplated in the present Agreement. My Government desires me to state that upon the extinguishment of the 1912 Loan it will be glad to assume the responsibilities allotted to it by the terms of the Loan Agreement between the Government of Liberia and the Finance Corporation of America."

It appears from the Agreement of September 1, 1926, between the Government of Liberia and the Finance Corporation of America that the Government of Liberia has hypothecated for the service of the loan to be made pursuant to that agreement the same revenues as are hypothecated by the Agreement of March 7, 1912, between the Liberian Government and certain bankers. The Liberian Government will readily appreciate that the Department could not appropriately consent to participate in any action under the new Agreement which would have the effect of transferring the revenues hypothecated under the Agreement of 1912 to the service of the loan made pursuant to the new Agreement, so long as any of the bonds issued under the Agreement of 1912 remain unpaid. The transfer of the revenue from the service of the 1912 loan to the service of the new loan, so long as any of the 1912 bonds remain unpaid would entail a violation by the Liberian Government of the Agreement of 1912 to which the parties to the 1912 Agreement and the holders of the 1912 bonds could appropriately object, as might also the Governments of Great Britain and France, which are involved in the 1912 Agreement, as is the Government of the United States. Therefore, until the 1912 bonds are called in, the Department will be unable to recommend to the President that he take any action under the new Agreement, except to the extent that such action may be taken consistent with the terms of the 1912 Agreement.

It is the intention of the Department to recommend to the President that he designate Mr. Sidney De la Rue as Financial Adviser under the new Agreement as soon as the 1912 bonds have been called and the Department understands that Mr. De la Rue is making provisional arrangements for the selection of the financial officers envisaged in the new Loan Agreement and that these nominations will be made formally and officially as soon as Mr. De la Rue is appointed under the new Agreement.

You may supplement your note to the Liberian Secretary of State with oral explanatory observations on the basis of the foregoing so that there may be no uncertainty or misunderstanding as to the implications of the new Agreement so far as they affect this Govern-

ment. You should, at the same time, assure him of the willingness of this Government in effecting the substitution of the new Agreement for the Loan Agreement of 1912.

I am [etc.]

JOSEPH C. GREW

882.8176 F 51/236

*Mr. Harvey S. Firestone, Jr., to the Liberian Secretary of State (Barclay)*⁶

[AKRON, OHIO,] 22 March, 1927.

SIR: I have the honor to transmit herewith Agreement Number Two between the Government of the Republic of Liberia and Firestone Plantations Company,⁷ executed for the Government by Edwin Barclay, Secretary of State and now executed for Firestone Plantations Company by Mr. Harvey S. Firestone and Mr. Harvey S. Firestone, Jr.

The delivery to you of this executed Agreement marks the conclusion of the first great step in the development by us of large rubber producing areas in the Republic of Liberia. For the past several years the Liberian Government and ourselves have tried to gain a knowledge of the practical problems of the other and, as a result, we now jointly have concluded this Agreement which satisfactorily observes our mutual interests and provides a sound foundation on which to build.

In building on this foundation for the years to come, each of us, of course, realizes that problems may arise which it has been impossible to anticipate and specifically provide for in this Agreement. However, we are confident that through mutual cooperation so firm a relationship of understanding and common purpose will be established that these problems will be harmoniously and speedily settled for the best interests of both.

I wish to take this opportunity of expressing our appreciation of the fine cooperation which we have been and are receiving from the Liberian Government and of emphasizing how vital it is to the success which we mutually are so desirous of attaining.

We have very pleasant memories of the personal courtesies extended to us and again offer our appreciative thanks.

With renewed expressions [etc.]

[HARVEY S. FIRESTONE, JR.]

Vice President

⁶ Copy transmitted to Henry Carter of the Division of Western European Affairs, Department of State, by Harvey S. Firestone, Jr., under covering letter of the same date; received Mar. 24.

⁷ For text of the agreement, see the Liberian Legislature's act of ratification of Nov. 10, 1926, *Foreign Relations, 1926*, vol. II, p. 561.

882.6176 F 51/231

*Mr. Harvey S. Firestone, Jr., to the Assistant Secretary of State
(Castle)*

AKRON, OHIO, *March 24, 1927.*

DEAR SIR: In behalf of Firestone Plantations Company, I have the honor to present you herewith, copy of an Agreement entered into between this Company and the Government of the Republic of Liberia dated October 2, 1926 and approved by the Legislature of the Republic of Liberia on November 10, 1926.*

We have endeavored to keep your Department fully advised during the progress of negotiations looking to the consummation of this Agreement. We hand you a copy thereof to complete your file.

We beg to direct your attention to Paragraph (n) of this Agreement providing means of arbitration between the parties. You will note therein provision for the use of the good offices of the Department of State of the United States in the matter of arbitration.

We would deeply appreciate an expression of the Department's approval of the provision and of its willingness to act when called on in the matter of arbitration as therein provided.

Respectfully yours,

FIRESTONE PLANTATIONS COMPANY
HARVEY S. FIRESTONE, Jr.
Vice President

882.6176 F 51/231

The Secretary of State to Mr. Harvey S. Firestone, Jr.

WASHINGTON, *April 12, 1927.*

SIR: The receipt is acknowledged of your letter of March 24, 1927, enclosing a copy of Planting Agreement No. 2 between the Firestone Plantations Company and the Liberian Government, and calling the Department's attention to the provisions of Article IV, paragraph (n), respecting arbitration procedure.

The Department will be pleased to assume the functions allotted to it in that paragraph and has accordingly instructed the American Legation at Monrovia to notify the Liberian Government to that effect.

I am [etc.]

For the Secretary of State:
WM. R. CASTLE, Jr.
Assistant Secretary

* For text of this agreement, see *Foreign Relations*, 1926, vol. II, p. 561.

882.6176 F 51/231

The Secretary of State to the Chargé in Liberia (Wharton)

No. 341

WASHINGTON, April 13, 1927.

SIR: There is transmitted herewith copy of a letter, dated March 24, 1927, from the Firestone Plantations Company, which enclosed a copy of Planting Agreement No. 2, between the Firestone Plantations Company and the Liberian Government, and which called the Department's attention to the provisions of Article IV, paragraph (n), respecting arbitration procedure.

It is believed that a copy of Planting Agreement No. 2 is in your files.

The Department feels certain that the Liberian Government already understands that the Department is prepared to perform the functions allotted to it in paragraph (n) of Article IV of Planting Agreement No. 2. However, in view of Mr. Firestone's request and in order to prevent any possible misunderstanding, it is desired that you inform the Liberian Government in writing of the willingness of the Department to assume the obligations under reference.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

882.51/1942

The Chargé in Liberia (Wharton) to the Secretary of State

No. 463

MONROVIA, LIBERIA, May 5, 1927.

Diplomatic

[Received May 28.]

SIR: I have the honor to report that I have complied with the Department's instructions No. 334, of March 4, 1927, relative to the assumption by my Government of the responsibilities allotted to it by the terms of the Loan Agreement between the Government of Liberia and the Finance Corporation of America.

On April 22, 1927, in presenting my note dated April 19, 1927, to the Secretary of State of Liberia, I supplemented it with the oral explanatory observations set forth in the Department's No. 334, of March 4, 1927. A copy of the Liberian Government's reply thereto is herewith enclosed.

With reference to the Liberian Government's reply of April 25, 1927, I took occasion a few days later, April 28, 1927, in an informal conversation with the Secretary to enquire the exact meaning of the words "reasonably object." The Secretary replied that his Government at no time had ever repudiated its debts and always had paid its debts; further that his Government in its agreement with the Finance Corporation had safeguarded the rights of the bondholders of the 1912 Loan.

I replied that while I had assured him of the willingness of my Government in effecting the substitution of the new Agreement, it was absolutely necessary to direct his attention to the rights of the holders of the bonds of the 1912 Loan to avoid any misunderstanding as to the implications of the new Agreement so far as they affected my Government; further that nothing was said with regard to the Liberian Government's not paying its debts and I wish he would explain to me just what he meant.

The Secretary confidentially said he did not mean my observations had imputed to his Government a disregard of the rights of the bondholders, nor did he mean that the 1912 bonds would not be refunded, but there was a tendency on the part of certain people, . . . to raise unnecessary questions whenever the matter of refunding the 1912 Loan came up. He further said that in the past such questions had been raised without any justification whatsoever and therefore he had inserted the words "reasonably object."

I have [etc.]

CLIFTON R. WHARTON

[Enclosure]

*The Liberian Secretary of State (Barclay) to the American Chargé
(Wharton)*

379/D

MONROVIA, LIBERIA, April 25, 1927.

SIR: I have the honour to acknowledge receipt of your despatch of the 19th of April 1927, with reference to the request of this Government made to the Government of the United States that they undertake certain obligations specified in the Loan Agreement between the Republic of Liberia and the Finance Corporation of America, and to say that I have taken careful note of the verbal explanatory observations made by you while presenting the note above referred to.

Whilst expressing my Government's appreciation of the prompt manner in which the Government of the United States has met its request, I beg leave to say with reference to the conditions attached to the United States Government's acceptance of the obligations laid upon it by the said Loan Agreement, that in concluding that agreement with the Finance Corporation of America for a credit of Five Million Dollars the Government of Liberia was fully conscious of its obligations under the 1912 loan agreement; and that in view of those obligations, provisions have been made for the retirement of the 1912 loan before the proceeds of the new loan can be applied to any other purpose, as will more fully appear by reference to the terms of the Loan Agreement of September 1, 1926.

I desire to emphasize that the Government of Liberia will see to it that no action be taken under the new agreement to which the bondholders of the 1912 loan can reasonably object.

I have [etc.]

EDWIN BARCLAY

882.51/1925 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, May 6, 1927—2 p. m.

16. Department's mail instruction No. 334, March 4. The Department is surprised to learn that the Liberian Government has construed the remarks made by you at the time of your presentation of this Government's reply to Barclay's note of December 9 as implying that the Liberian Government had violated, or intended to violate, the Loan Agreement of 1912, and as casting a gratuitous reflection upon the good faith of the Liberian Government. This Government had absolutely no such thought in mind in instructing you to make those remarks which were intended purely and simply to point out to the Liberian Government the technical legal difficulties which prevented this Government from immediately assuming the functions assigned to it under the new Agreement. These difficulties were fully explained to De la Rue at the time the instruction was drafted and it is understood that he has already cabled the Liberian Government on the subject.

Please explain matters to the Liberian Government in the above sense in order that all misunderstanding may be completely dispelled.

KELLOGG

882.51/1941½

*Mr. Harvey S. Firestone, Jr., to Mr. Harvey S. Firestone*⁹

[AKRON, OHIO,] May 7, 1927.

DEAR SIR: I hand you herewith copy of executed Loan Agreement between the Government of the Republic of Liberia and Finance Corporation of America, with the National City Bank of New York as Fiscal Agent.

The history of the negotiations of this Loan Agreement dates back to a clause incorporated in one of the early drafts of Planting Agreement No. Two, signed by you on January 12, 1925,¹⁰ and taken immediately thereafter to Liberia by Mr. W. D. Hines. This clause reads as follows:

⁹ Circumstances under which this copy was received by the Department not known.

¹⁰ *Foreign Relations*, 1925, vol. II, p. 394.

"It is further agreed that the Lessee shall use his best efforts to secure either from the Government of the United States or from some other person or persons, a loan of not less than \$2,000,000.00, or more than \$5,000,000.00, upon all the terms and conditions of the loan of \$5,000,000.00 which was contemplated in the proposed Agreement between the Government of Liberia and the Government of the United States and was approved by the Government of Liberia on or about the . . . day of . . . , 19 Such loan, whether made by the Government of the United States or by others, to be under the terms and conditions last mentioned, and the Government of Liberia agrees to accept such loan on such terms if it can be secured within five years from this date."

As a result of further negotiation, the clause regarding the Loan was changed and appears as follows in the Planting Agreement Number Two, as finally executed:

"It is further agreed that the Lessee shall use its [*his*] best efforts to secure either from the Government of the United States, or, with the approval of the Secretary of State of the United States, from some other person or persons, a loan of not less than \$5,000,000 to establish a credit for public development in the Republic of Liberia to the end that the credit may be a revolving credit, set up through reserves so as to meet the future requirement of funds for such development. Such loan shall be upon the terms and conditions to be negotiated by a Commission to be appointed by the President of Liberia, who shall proceed promptly to the United States for such purpose. It is understood that such terms and conditions as agreed upon shall be subject to the approval of the Legislature of the Republic of Liberia."

Instead of sending a Commission, President King of Liberia sent Secretary of State Edwin Barclay to the United States to negotiate the terms of the Loan Agreement in addition to completing and signing the Planting Agreement. Secretary Barclay arrived in the United States on August 11 [12], 1925; Mr. de la Rue arrived about August 20, 1925.

To facilitate the negotiations, a corporation of nominal capital with the name "Finance Corporation of America" was incorporated, (September 11, 1925) under the laws of the State of Delaware.

During the latter part of August and the first half of September, successive drafts of a Loan Agreement were prepared by Colonel Ralph Crews of Shearman and Sterling, the original draft being based on the proposed 1921 United States Government Loan to Liberia which failed of ratification by the American Congress. During this time Colonel Crews was assisted by Mr. Harvey S. Firestone, Jr., and Mr. de la Rue. Colonel Crews talked with Secretary Barclay from time to time and secured his thoughts on various points. Subsequently a Loan Agreement which was satisfactory both to Secretary Barclay and ourselves was completed, printed and ini-

tiated as satisfactory by Secretary of State Barclay on September 17, 1925, subject to the approval and sanction of the Liberian Legislature.¹¹

This Loan Agreement was accepted by the Liberian Legislature on January 28th and February 16, 1926, subject to many modifications which were not acceptable to us and we so advised them. For the next few months no particular attempt was made to straighten out the terms of the Loan Agreement, as everyone felt that there would be no use further negotiating the Loan Agreement until the Planting Agreement had been satisfactorily straightened out; without a satisfactory Planting Agreement, a Loan Agreement was of no interest.

Mr. Hines left for Liberia the middle of March 1926, and Mr. de la Rue arrived here in April, 1926. No tangible conclusion of the Loan Agreement was attempted while Mr. de la Rue was in the United States, as we felt it would be better to await until my arrival in Liberia in September, 1926.

On October 20, 1926, the Liberian Government received from Shearman and Sterling, over Mr. Guy Cary's signature, a letter dated September 17, 1926,¹² transmitting a new, reprinted Loan Agreement, executed by Finance Corporation of America,¹³ which contained some of the provisions that the Liberian Legislature had included in its Resolutions of January 28 and February 16, 1926, and also contained provisions that Finance Corporation of America desired, but some of which were objectionable to the Liberian Government. Negotiations were completed satisfactorily and the Liberian Legislature ratified a revised Loan Agreement agreeable to all parties on December 7, 1926.¹⁴

On January 25, 1927 Mr. de la Rue arrived in the United States bringing with him the final completed Loan Agreement properly executed by the Liberian Government. He also brought with him proper proofs of the correct legal procedure in connection with the ratification and execution of the Loan Agreement by the Republic of Liberia, as well as the opinion of Liberian counsel and all other data required by Shearman and Sterling enabling them, as counsel for Finance Corporation of America and the Fiscal Agent, to formally approve the terms of the Agreement, the procedure of its execution and the bond issue itself.

On March 3, 1927, the United States Department of State wrote Finance Corporation of America agreeing to assume the obligations imposed upon the United States Government by the terms of the Loan Agreement.

¹¹ *Foreign Relations*, 1925, vol. II, p. 463.

¹² Not printed; see letter of Sept. 25, 1926, from Guy Cary to the Department, *Foreign Relations*, 1926, vol. II, p. 546.

¹³ *Ibid.*, p. 548.

¹⁴ *Ibid.*, p. 574.

Mr. de la Rue left the United States on May 4, 1927, having made all necessary arrangements for the prompt and proper commencement of the new Loan Agreement on July 1, 1927, at which time the 1912 Loan will be refunded.

In addition to handling all of the details to carry out the transition from the old Loan Agreement to the new Loan Agreement on July 1, 1927, Mr. de la Rue engaged all the additional personnel necessary under the new Loan Agreement, namely:

Ralph H. Birkmire for Bonded Auditor,
Charles Colegrove for Assistant Bonded Auditor, and
Cathey M. Berry for Supervisor of Internal Revenue.

C. T. Bussell, who has been Mr. de la Rue's assistant under the old Loan will take the position of Supervisor of Customs under the new Loan Agreement.

Respectfully submitted,

HARVEY S. FIRESTONE, Jr.

882.51/1938: Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, May 10, 1927—10 p. m.

[Received May 11—4:30 p. m.]

24. Department's telegram 16, May 6, 2 p. m. My remarks of April 22nd upon presenting note contained only exact words of Department's instruction number 334, March 4th. Barclay's written reply April 25th not clear to me, and 28th I discussed matter with him and understanding reached as will appear from my despatch number 463 written and mailed to the Department May 5th. Yesterday matter taken up again and assure the Department any misunderstanding has been completely dispelled.

WHARTON

882.6176 F 51/237½

*Mr. Harvey S. Firestone, Jr., to Mr. Harvey S. Firestone*¹⁵

AKRON, OHIO, May 21, 1927.

DEAR SIR: I hand you herewith copy of executed Agreement Number One¹⁶ and Agreement Number Two¹⁷ between the Government of the Republic of Liberia and Firestone Plantations Company. By Agreement Number One we have secured a 99 year lease on Mount

¹⁵ Circumstances under which this copy was received by the Department not known.

¹⁶ For text, see *Foreign Relations*, 1925, vol. II, p. 450, and modifications in *Liberian Legislature's act of ratification*, *ibid.*, 1926, vol. II, p. 516.

¹⁷ *Ibid.*, 1926, vol. II, p. 561.

Barclay Plantation and by Agreement Number Two we have secured a 99 year lease on a concession for one million acres on special terms and conditions. Agreement Number Two is termed our Planting Agreement.

The history of the negotiations of this Planting Agreement dates back to the trip which W. D. Hines took with Messrs. Ross, Cheek, and Wierman, during the first half of 1924. A proposed Agreement was drawn up between the Liberian Government and Mr. Hines in June, 1924¹⁹ and this was brought back to Akron by Mr. Hines on July 16, 1924.

The Agreement was rewritten by Mr. A. C. Miller to conform to our ideas regarding what it should contain. In this form it was signed by you on January 12, 1925,²⁰ and then taken to Liberia by Mr. Hines. A series of negotiations over certain points followed by cable with Akron, but were unsuccessful and Mr. Hines again returned to Akron on June 30, 1925.

On August 5, 1925, we received through the American State Department a revised Agreement written by Liberia and signed by Edwin Barclay on June 27, 1925.²¹ Meanwhile, President King of Liberia sent Secretary of State Edwin Barclay, to the United States to negotiate the terms of the Loan Agreement in addition to completing and signing the Planting Agreement. Secretary Barclay arrived in the United States on August 11 [1925], 1925.

The Planting Agreement as signed by Secretary Barclay on June 27, 1925, was not satisfactory to us and, in anticipation of personal negotiations with Mr. Barclay in this country, Mr. A. C. Miller revised it on August 25, 1925, to incorporate our requirements.²²

As a result of the conference with Secretary Barclay on August 27, 1925, certain alterations were incorporated in the draft of August 25, 1925. Mr. Barclay cabled these changes to Liberia. On September 16, 1925, a completed Planting Agreement was signed in Colonel Crews' office, of Shearman and Sterling, by you and Secretary Barclay.²³ Agreement Number One was redrafted to conform to the Planting Agreement and signed.²⁴ On January 30, 1926, the Planting Agreement was ratified by the Liberian Legislature as signed by Secretary Barclay on September 16, 1925, but, in ratifying it, the Legislature made certain changes.²⁵

The Planting Agreement as formally ratified was unsatisfactory to us and subsequent negotiations during February and March, 1926,

¹⁹ *Foreign Relations*, 1925, vol. II, p. 373.

²⁰ *Ibid.*, p. 394.

²¹ Not printed.

²² Draft not printed.

²³ *Foreign Relations*, 1925, vol. II, p. 454.

²⁴ *Ibid.*, p. 450.

²⁵ For text of the act of ratification, see *ibid.*, 1926, vol. II, p. 516.

were not successful in getting matters straightened out. Mr. Hines left for Liberia the middle of March, 1926, and Mr. de la Rue arrived here in April, 1926, with a letter of authority from the Liberian Government, dated March 10, 1926,²⁶ to discuss the terms of the Planting Agreement with us.

Mr. de la Rue remained until July, but we did not attempt to arrive at a final arrangement with him, as we felt it would be better to hold the matter open until my arrival in Liberia in September, 1926.

Immediately upon my arrival in Liberia on September 12, 1926, I started negotiations with President King with a view to arriving at a mutually acceptable Planting Agreement. I kept you advised by cable regarding the progress of the negotiations and likewise obtained from you instructions and advice. On October 16, 1926, I initialed a Planting Agreement which was mutually acceptable to the Liberian Government and ourselves.

This Agreement, was ratified by the Liberian Legislature on November 10, 1926,^{26a} and I brought back with me two copies executed by Secretary of State Edwin Barclay for Liberia. Both copies were executed for the Firestone Plantations Company by you at Miami Beach, Florida, on March 4, 1927, and I transmitted one copy to Secretary Barclay on March 22nd, 1927.

The American State Department, in a letter to Firestone Plantations Company, dated April 12, 1927, over signature of Assistant Secretary of State, Wm. R. Castle, Jr., has agreed to assume the functions allotted to it by this Agreement.

The history of Agreement Number One closely follows that of the Planting Agreement. It stands as signed by Secretary Barclay on September 16 [17], 1925,²⁷ subject to the ratification by the Liberian Legislature which it received on January 30, 1926,²⁸ and in consistency with Agreement Number Two. The attached letter from Secretary of State Barclay to Harvey S. Firestone, Jr., dated December 6, 1926, sets this out in full.²⁹

Agreement Number Three, signed in New York on September 16, 1925,³⁰ and approved by the Legislature of Liberia on January 30, 1926,²⁸ provided the detailed arrangements by which we would build a harbor at Monrovia for the Liberian Government. As subsequently we have abandoned this idea, this Agreement is not longer of any importance and becomes obsolete.

Respectfully submitted,

HARVEY S. FIRESTONE, Jr.

* Not printed; for De la Rue's instructions, see *ibid.*, p. 539.

^{26a} For text of the agreement and the act of ratification, see *ibid.*, p. 561.

²⁷ *Foreign Relations*, 1925, vol. II, p. 450.

²⁸ *Ibid.*, 1926, vol. II, p. 516.

²⁹ Not found with file copy of this letter.

³⁰ *Foreign Relations*, 1925, vol. II, p. 461.

882.51/1949

Messrs. Shearman & Sterling to the Secretary of State

NEW YORK, July 5, 1927.

[Received July 7.]

SIR: Referring to your letter of March 3, 1927, addressed to ourselves as attorneys for the Finance Corporation of America and for The National City Bank of New York, as Fiscal Agent, with respect to the new Loan Agreement, dated as of September 1, 1926, made between the said parties and the Republic of Liberia, we are advised, by a letter, dated July 1, 1927, a duplicate of which we enclose, that the said Bank, acting as Fiscal Agent under the old loan agreement of July, 1912, duly called for redemption on July 1, 1927, all the outstanding bonds of the 1912 loan, and has paid and is paying off the same as and when presented.

In view of this, we assume that the Department is prepared to recognize the new Loan Agreement of September 1, 1926, as in full force and effect, and to recommend to the President that he take the action required of him with respect to the recommendation and designation of fiscal and other officers.

If we are correct in this assumption, we shall be much obliged if you will so inform us for the information of our clients.

Yours very truly,

SHEARMAN & STERLING

[Enclosure]

*The Vice President of The National City Bank of New York
(Hoffman) to the Finance Corporation of America*

NEW YORK, July 1, 1927.

DEAR SIR: Answering your inquiries, you are advised that we have received, as Fiscal Agents of the Loan under the Fiscal Agency Agreement between the Republic of Liberia and The National City Bank of New York, dated July 1st, 1912, sufficient funds to redeem all the bonds of this issue now outstanding in the hands of the public; viz. a principal face amount of \$1,146,700., together with interest to July 1st, 1927, the redemption date.

You are further advised that, as provided in Article Fifth of the Fiscal Agency Agreement, the required redemption notice has been published in two daily newspapers of general circulation in the State of New York for not less than twice a week for six successive weeks; also, as further required in the Fiscal Agency Agreement, the same redemption notice has been published once a week for six successive weeks in London, England; Hamburg, Germany; Paris, France; Brussels, Belgium; Geneva, Switzerland; Antwerp, Belgium; and Amsterdam, Holland.

We enclose herewith, in duplicate, a copy of the notice³¹ as it appeared in the *New York Times* and the *New York Sun*.

Beginning today all bonds of the said Loan are being paid off, principal and interest, as and when presented, by ourselves and our correspondents named in the redemption notice.

Very truly yours,

W. W. H[OFFMAN]

882.51/1949

The Secretary of State to Messrs. Shearman & Sterling

WASHINGTON, July 14, 1927.

SIRS: The receipt is acknowledged of your letter of July 5, 1927, stating that the National City Bank of New York acting as Fiscal Agent under the Liberian Loan Agreement of 1912 duly called for redemption on July 1, 1927 all the outstanding bonds of the 1912 loan and has paid and is paying off the same as and when presented. You ask whether the Department is now prepared to recognize the new loan agreement of September 1, 1926, as in full force and effect and to assume the responsibilities allotted to it by the new agreement.

In view of the provision made for the payment of the 1912 bonds and also in view of the payment of the Liberian debt to the United States which was effected on July 6, this Government is now pleased to assume the responsibilities allotted to it under the new agreement. It understands these responsibilities to be:

(a) That the President designate to the President of Liberia a Financial Adviser (Article VIII);

(b) That the President shall likewise recommend two duly qualified and experienced officers to the President of Liberia to be appointed by him to the Liberian Frontier Force (Article XII, Paragraph 3);

(c) That the Secretary of State shall receive from the Financial Adviser the names of the fiscal officers appointed under Article IX;

(d) That the Secretary of State may be requested to appoint an arbitrator in cases of dispute between the parties to the agreement (Article XXV).

In accordance with the statement made in its letter of March 3, 1927, the Department has now recommended to the President that he designate Mr. Sidney De la Rue as Financial Adviser under the new agreement, and upon the receipt of the President's approval this designation will be transmitted to the President of Liberia through the diplomatic channel. Mr. De la Rue has already submitted the names of the fiscal officers appointed under Article IX, thus: the requirement of that Article.

³¹ Not printed.

Regarding the recommendation of officers for the Liberian Frontier Force, the Department understands that at present Major Moody Staten and Captain Hanson Outley, both American citizens, are serving with the Liberian Frontier Force under contract with the Liberian Government and it does not feel that it would be desirable to make any change in this respect during the life of their contracts.

I am [etc.]

FRANK B. KELLOGG

882.51/1955a

The Secretary of State to President Coolidge

WASHINGTON, July 14, 1927.

MY DEAR MR. PRESIDENT: On September 1, 1926, an agreement was entered upon between the Liberian Government, the Financial Corporation of America, and the National City Bank of New York, Fiscal Agent, providing for a five million dollar loan to Liberia to adjust its outstanding indebtedness, including payment of the Liberian debt to the United States and the bonds issued under the 1912 loan agreement between the Liberian Government and certain American bankers. As under the 1912 agreement this loan is secured by a first lien on all Liberian export and import duties and on revenues received from head monies.

In the new agreement certain functions are assigned to this Government analogous to those assigned to it under the 1912 agreement and upon the request of the parties to the new agreement this Government on March 3, 1927, indicated its willingness to assume the responsibilities allotted to it by the terms of the present agreement so soon as its responsibilities under the old agreement should have been discharged with the payment of the 1912 bonds.

The Department is now advised by the attorneys for the Financial Corporation of America and for the National City Bank of New York, Fiscal Agent, that the National City Bank of New York acting as Fiscal Agent under the old loan agreement of 1912 duly called for redemption on July 1, 1927 all the outstanding bonds of the 1912 loan, and has paid and is paying off the same as and when presented. They ask whether this Department is now prepared to recognize the new loan agreement of September 1, 1926 as in full force and effect and to assume its new responsibilities.

These responsibilities are defined in the new agreement by the following articles:

(a) *Appointment of Financial Adviser.*

"Article VIII. As an additional guarantee of the prompt payment of the loan and to insure the efficient organization and functioning of the Liberian fiscal services, the Government covenants and agrees

to appoint to its service said Financial Adviser, who shall be designated by the President of the United States of America to the President of the Republic of Liberia and, subject to his approval, appointed to the said office. The said Financial Adviser shall at all times be subject to removal by the President of the Republic of Liberia, upon the request of the President of the United States."

(b) Customs and Internal Revenue Administration.

"Article IX. The organization of the customs and internal revenue administration of the Republic shall be supervised by the following officers, who shall be nominated by the Financial Adviser, to the President of the Republic of Liberia, (the Financial Adviser having first reported the names of the officers nominated to the Secretary of State of the United States), and shall be by the President of the Republic of Liberia appointed and commissioned to the respective offices with duties as defined in this Instrument. These officers shall hold their appointment during good behavior but shall be subject to removal by the President of Liberia, for cause, or upon the withdrawal by the Financial Adviser, for sufficient cause stated, of his recommendation of such officer or officers.

"The auditor and assistant auditor shall be appointed by agreement between the Government and the Fiscal Agent, and the Liberian Assistant Auditor shall be appointed by the President of the Republic of Liberia, to serve during his pleasure.

"The officers to be so designated shall be qualified as to education and as to previous experience in similar or analogous positions in foreign service; and the President of the Republic of Liberia, before commissioning them for service hereunder, shall have the right to require satisfactory proof of such qualifications, with the exception only of the Financial Adviser:

"1. A Financial Adviser who shall be designated and appointed as hereinbefore stated, at a salary of \$12,500. per annum;

"2. An official, who shall be designated Supervisor of Customs;

"3. An official, who shall be designated Supervisor of Internal Revenue;

"4. A bonded Auditor appointed by agreement between the President of the Republic of Liberia and the Fiscal Agent;

"5. A bonded Assistant Auditor, appointed by agreement between the President of the Republic of Liberia and the Fiscal Agent;

"6. A bonded Assistant Auditor who shall be appointed by the President of the Republic of Liberia.

"The officers above mentioned shall perform such duties and employ such persons as may be defined by law or prescribed by the Government, with or upon the advice of the Financial Adviser, as provided in Article XII. Said officers in the performance of their duties as above shall be responsible to the Financial Adviser. The salaries of said officers, with the exception of the Financial Adviser, shall be fixed from time to time by agreement between the Financial Adviser and the Government, but the total aggregate salaries of said officers, excepting only the Financial Adviser, shall not exceed the total aggregate sum of Thirty-two Thousand Dollars (\$32,000); provided, how-

ever, that in the event of substantial changes in money values, the salary of the Financial Adviser and the above aggregate total amount for salaries of other officers may be from time to time increased or diminished by agreement between the Government and the Fiscal Agent."

(c) *Payment of the Liberian debt to the United States.*

"Article XI. 1. The Government hereby authorizes the redemption of all of its Bonds now issued and outstanding, commonly called the 5% Sinking Fund Gold Loan due July 1, 1952, under the agreement for Refunding Loan dated March 7, 1912 between the Republic of Liberia of the first part and Messrs. J. P. Morgan & Co., *et al.*, of the second part. The redemption of said Bonds shall be promptly carried out by the Fiscal Agent for the account of the Government in such manner as it may deem to be to the best interests of the Government, pursuant to the terms and provisions of the indenture of March 7, 1912. For this purpose the Fiscal Agent shall use the first proceeds which it may receive from the sale of bonds as hereinbefore provided.

"2. The Government further authorizes the payment of all costs and expenses incident to the preparation of this Agreement, and the preparation, and execution of said Bonds, including fees of the Corporation's counsel, which the Fiscal Agent is hereby authorized and directed to pay from the first proceeds of said Bonds, as aforesaid.

"3. The remaining proceeds of said Bonds purchased by the Corporation shall be from time to time paid out by the Fiscal Agent for the account of the Government for the following purposes, in the following order of priority, to wit:

"4. Thirty-Five Thousand Dollars, or such less amount as shall be sufficient to enable the Government to repay the advances heretofore made to it by the Secretary of the Treasury of the United States under the Act of September 24, 1917, known as 'Second Liberty Loan Act' as amended and supplemented, and the interest thereon;"

(d) *Appointment of officers to the Liberian Frontier Force.*

"Article XII. 3. For the further security of the revenues and receipts, the Government shall maintain the Liberian frontier force, and shall further maintain patrol service by sea as may be necessary from time to time. The patrol service by sea shall be administered by the Treasury Department Customs Service. The frontier force shall be administered by the War Department and the strength of the force shall be fixed by agreement between the President of Liberia and the Financial Adviser, and it shall not be increased or reduced in number without the agreement of the Financial Adviser, except temporarily in case of emergency declared to be such by the Government. Two duly qualified and experienced officers shall be recommended by the President of the United States to the President of Liberia, and if approved by the President of Liberia, shall be appointed by him to the said Frontier Force. These officers shall be one Major and one Captain. The total aggregate salaries of said officers shall not exceed the sum of eight thousand dollars (\$8,000) per annum; provided, however, that such sum may be at any time increased or diminished by agreement between the Government and the Fiscal Agent. Such salaries shall include all allowances, except medical care and attendance, travel on

duty, and quarters, which shall be furnished by the Government. Such officers shall serve in the frontier service during the term of said Bonds. Among their duties shall be to prepare a plan of reorganization of the force which shall be based on the idea of creating an efficient constabulary organization for the purposes aforesaid and which plan shall include the qualification and disciplining of all commissioned and non-commissioned officers and the training of the men in accordance with the best practice now obtaining in similar organizations."

(e) *Arbitration in case of disputes.*

"Article XXV. In case of dispute between the Government and either of the other parties to this Contract, the matter shall be referred for determination to arbitrators, one of whom shall be appointed by each of the parties to dispute; and, if such arbitrators shall be unable to agree among themselves, the Secretary of State of the United States of America shall be requested to appoint an additional arbitrator who shall be of different nationality from the other two arbitrators. The decision of a majority of the arbitrators so appointed shall be binding and conclusive upon the parties to the dispute."

The Department was kept closely informed by the interested parties at all stages of the negotiations leading to the formulation of the new agreement of September 1, 1926, and, as I have indicated, it stated the willingness of this Government to assume the responsibilities allotted to it thereunder. With the payment of the 1912 bonds the moment for assuming those responsibilities appears to have come, and in this connection I would remind you that the Liberian debt to the United States of \$35,610.46 was paid in full on July 6 by the Liberian Consul General who had been appointed Special Financial Representative of the Republic of Liberia for that occasion.³²

For the moment the only duty incumbent upon this Government is the designation of a Financial Adviser by you to the President of Liberia. After consultation with the interested parties I am of the opinion that this position could best be filled by Mr. Sidney De la Rue, who has for the past five years occupied the analogous position of Receiver General of Customs and Financial Adviser under the old agreement. Mr. De la Rue was born in New Jersey in 1888 and has his permanent American residence at Philadelphia. From 1918 to 1920 he was an auditor in the military government in Santo Domingo and Porto Rico. In 1921 he went to Liberia as auditor, becoming Acting Receiver General of Customs in 1922, and in 1923 was formally appointed Receiver General of Customs and Financial Adviser of the Republic of Liberia. His administration of the Liberian Customs has been eminently successful and efficient. He enjoys the confidence of the Liberian Government, the National City Bank, and this Department, and I take pleasure in recommending

³² See pp. 159 ff.

to you that you designate him as Financial Adviser under Article VIII of the new agreement.

As regards the appointment of two officers to the Liberian Frontier Force under Article XII, Paragraph 3, I would state that at the present moment there are two American citizens serving as officers in the Liberian Frontier Force who were appointed under the terms of the 1912 agreement. As they hold contracts with the Liberian Government it does not seem necessary to take any action in respect of Article XII, Paragraph 3, during the life of those contracts.

As soon as I have learned your wishes with regard to the appointment of the Financial Adviser I shall communicate with the President of Liberia through the diplomatic channel.

I am [etc.]

FRANK B. KELLOGG

882.51/1956

The Secretary to the President (Sanders) to the Secretary of State

RAPID CITY, S. DAK., July 18, 1927.

[Received July 21.]

MY DEAR MR. SECRETARY: I beg to acknowledge, by direction of the President, your letter of July 14th, with reference to the indebtedness of Liberia. In view of the statements contained in your letter, the President approves the designation of Mr. Sidney De la Rue as Financial Advisor to the President of Liberia.

Very truly yours,

EVERETT SANDERS

882.51/1956: Telegram

The Secretary of State to the Chargé in Liberia (Macy)

WASHINGTON, July 29, 1927—5 p. m.

23. Department's mail instruction 334, March 4.

1. Please hand following note to Liberian Secretary of State:

"With reference to the Legations's note of April 19, 1927,³³ I have the honor to state that I have been instructed to inform Your Excellency that the President and the Secretary of State of the United States, having been advised that suitable provision has been made for the extinguishment of the 1912 Loan, take pleasure in assuming the functions assigned to them under the terms of the Loan Agreement of September 1, 1926.

"I am further instructed to inform Your Excellency that in pursuance of Article 8 of that Agreement the President of the United States hereby designates to the President of Liberia the name of Sidney de la Rue for appointment as Financial Adviser to the Republic of Liberia."

³³ Note presented in accordance with Department's instruction No. 334, Mar. 4, p. 138.

2. After de la Rue has received his formal appointment you may call his attention to the requirement of Article 9 that he report to the Department the names of nominees for the positions therein provided.

3. The Department understands that Major Staten and Captain Outley have contracts with the Liberian Government and therefore it will take no action under Article 12, paragraph 3, during the life of those contracts.

KELLOGG

882.51/1964

The Chargé in Liberia (Macy) to the Secretary of State

No. 499

MONROVIA, August 9, 1927.

Diplomatic

[Received September 8.]

SIR: I have the honor to acknowledge receipt of the Department's telegraphic instruction No. 23 of July 29, 5 P. M. concerning appointments under the new loan agreement of September 1, 1926.

The note directed to be handed to the Liberian Secretary of State by the instruction under acknowledgment was delivered to His Excellency Secretary Barclay in person the morning of August 2, 1927. A copy thereof is enclosed.⁸⁴ A communication was then addressed to Mr. de la Rue, asking him to notify the Department of nominations made under the provisions of Article IX of the loan agreement of September 1, 1926.⁸⁴

Mr. de la Rue was formally commissioned as Financial Adviser by the Liberian Government on June 27, 1927, his letter so stating, and also transmitting names of nominees for the positions of Supervisor of Customs and Supervisor of Internal Revenue is attached, in duplicate.

With regard to contracts of Major Staten and Captain Outley, these officers are, as the Department understands, not affected by the new loan until after the expiration of their present contracts.

I have [etc.]

C. E. MACY

[Enclosure]

The Financial Adviser to the Republic of Liberia (De la Rue) to the Secretary of State

MONROVIA, August 3, 1927.

SIR: I have the honor to report that I have been officially advised that the President and the Secretary of State of the United States, having been advised that suitable provision has been made for the

⁸⁴ Not printed.

extinguishment of the 1912 Liberian Gold Loan, have notified the Government of the assumption by them of the functions assigned under the terms of the Loan Agreement of the Republic of Liberia of September 1, 1926. Further, that the President of the United States has done me the honor to designate me to the President of Liberia for appointment as Financial Adviser to the Republic of Liberia, pursuant to the terms of Article VIII of said Loan Agreement of September 1, 1926.

2. I have the honor to accept the designation and to respectfully offer my sincere thanks for the trust and confidence that have been reposed in me. The Liberian Government has duly commissioned me as Financial Adviser, the date of my Commission being June 27, 1927.

3. In accordance with Article IX of the Loan Agreement of September 1, 1926, I beg to report the names of the nominees for the positions therein provided, as follows, viz:—

(a) Supervisor of Customs, Conrad T. Bussell, of Irvington, Virginia, U. S. A. Mr. Bussell has been associated in the work of the Liberian Customs Service for the last several years and his record has already been filed with the Department.

(b) Supervisor of Internal Revenue, Cathey M. Berry, of San Antonio, Texas, U. S. A. Mr. Berry's recommendation by the Chief of the Bureau of Insular Affairs has already been filed with the Department.

Both of the above named officers have been duly commissioned by the Liberian Government and have entered upon their duties.

4. As a matter of record, I desire to include in this report the names of the Auditor and Assistant Auditor appointed by agreement by the President of Liberia and the Fiscal Agent under the terms of the September 1, 1926 Loan:—

(a) The Auditor is Ralph H. Birkmire, of Allentown, Pennsylvania, U. S. A.

(b) The Assistant Auditor is Charles G. Colgrove, of Sheffield, Pennsylvania, U. S. A.

The Auditor and Assistant Auditor have been duly commissioned and have entered upon their duties.

5. In closing, I beg [etc.]

SIDNEY DE LA RUE

582.51/1972

*The Liberian Secretary of State (Barclay) to the American Chargé (Macy)*³⁵

870/D

MONROVIA, August 20, 1927.

MR. CHARGÉ D'AFFAIRES: I have the honour to acknowledge receipt of your communication dated July 30, 1927,³⁶ informing the Govern-

³⁵ Copy transmitted to the Department by the Chargé in Liberia in his despatch No. 511, Sept. 13; received Nov. 4.

³⁶ See telegram No. 23, July 29, to the Chargé in Liberia, p. 156.

ment of Liberia that, the President and the Secretary of State of the United States, having been advised that suitable provision has been made for the extinguishment of the 1912 loan, take pleasure in assuming the functions assigned to them under the terms of the Loan Agreement of September 1, 1926.

Replying to the penultimate paragraph of your communication,³⁷ I have the honour to say that the President's designation of Mr. Sidney de la Rue to the President of Liberia for appointment as Financial Adviser to the Republic of Liberia, is agreeable and acceptable to the Liberian Government.

I have [etc.]

EDWIN BARCLAY

PAYMENT BY THE GOVERNMENT OF LIBERIA OF ITS WORLD WAR DEBT TO THE GOVERNMENT OF THE UNITED STATES

882.51/1896

*The Assistant Secretary of State (Harrison) to the Under Secretary
of the Treasury (Winston)*

WASHINGTON, December 31, 1926.

MY DEAR MR. WINSTON: I beg to acknowledge the receipt of your letter of December 27, 1926, regarding the debt of \$26,000, with interest, owed by the Republic of Liberia to the United States.³⁸

You will doubtless recall that Article I of the 1921 Loan Agreement between the United States and Liberia made provision for the payment of this debt.³⁹ However, this Agreement while ratified by the Liberian Government, failed to receive ratification by the Congress of the United States and consequently never became effective.

The principle of recognition of this debt appears in the recent Loan Agreement between the Finance Corporation of America and the Government of the Republic of Liberia (National City Bank of New York, Fiscal Agent) and the Department understands that Article XI of that Agreement reads as follows:⁴⁰

1. "The Government hereby authorizes the redemption of all of its Bonds now issued and outstanding, commonly called the 5% Sinking Fund Gold Loan due July 1, 1952, under the agreement for Refunding Loan dated March 7, 1912, between the Republic of Liberia of the first part and Messrs. J. P. Morgan & Co., *et al.*, of the second part. The redemption of said Bonds shall be promptly carried out by the Fiscal Agent for the account of the Government in such manner as it may deem to be to the best interests of the Government, pursuant to the terms and provisions of the indenture of March 7,

³⁷ Second paragraph of note as transmitted in Department's telegram No. 23, July 29.

³⁸ Not printed.

³⁹ *Foreign Relations*, 1921, vol. II, p. 370.

⁴⁰ *Ibid.*, 1926, vol. II, pp. 574, 582.

1912. For this purpose the Fiscal Agent shall use the first proceeds which it may receive from the sale of bonds as hereinbefore provided.

2. The Government further authorizes the payment of all costs and expenses incident to the preparation of this Agreement, and the preparation, and execution of said Bonds, including fees of the Corporation's counsel, which the Fiscal Agent is hereby authorized and directed to pay from the first proceeds of said Bonds, as aforesaid.

3. The remaining proceeds of said Bonds purchased by the Corporation shall be from time to time paid out by the Fiscal Agent for the account of the Government for the following purposes, in the following order of priority, to wit:

4. Thirty-Five Thousand Dollars, or such less amount as shall be sufficient to enable the Government to repay the advances heretofore made to it by the Secretary of the Treasury of the United States under the Act of September 24, 1917, known as 'Second Liberty Loan Act', as amended and supplemented, and the interest thereon.

5. Such amount as shall be certified by the Financial Adviser as being sufficient to enable the Government to pay its internal funded debt, and the interest thereon;

6. Such amount as shall be certified by the Financial Adviser as being sufficient to enable the Government to pay its internal floating debt;

7. Improvements and developments as set out in the preamble on page 1, sub-paragraphs *a, b, c, d, e, and f.*

Such payments shall be made from time to time by the Fiscal Agent from funds available in its hands therefor to the credit of the Government, upon the request of the Secretary of the Treasury of the Republic of Liberia, certified and approved in manner and form satisfactory to the Fiscal Agent by the Financial Adviser."

The Department further understands that this agreement provides for the issuance of bonds according to the following schedule:

Article X.

3. During the calendar year 1927, not to exceed the total aggregate amount of \$1,500,000, face value of said Bonds;

4. During the calendar year 1928, not to exceed the aggregate face amount of \$500,000 of said Bonds;

5. During the calendar year 1929, not to exceed the aggregate face amount of \$500,000 of said Bonds.

It is believed that the proceeds of the sale of these Bonds will be more than sufficient to meet the charges listed in Article 11, paragraphs 1 to 4, and that in due course the Fiscal Agent will, on behalf of the Liberian Government pay the Liberian debt to the United States with interest.

The Department has informed the Fiscal Agent of your inquiry and has asked to be advised of the probable date upon which it will be able to take up the question of the payment of this debt.

Upon receipt of the Fiscal Agent's reply the Department will communicate with you further.

Sincerely yours,

LELAND HARRISON

882.51/1910

The Assistant Secretary of State (Harrison) to the Under Secretary of the Treasury (Winston)

WASHINGTON, January 8, 1927.

MY DEAR MR. WINSTON: I beg to refer to your letter of December 27,⁴¹ and the Department's reply of December 31, regarding the possibility of the payment of the debt of \$26,000, with interest, owed by the Republic of Liberia to the United States.

The Department has communicated with the National City Bank, which is acting as Fiscal Agent under the terms of the new Loan Agreement between the Government of the Republic of Liberia and the Finance Corporation of America, and has inquired as to the probable date upon which it will be possible to take up the question of the payment of this debt.

I am now in receipt of a letter from Mr. Guy Cary, dated January 4, 1927, which reads in part as follows:

"A representative of the Liberian Government is due in this City about the 20th of this month, bringing the text of the loan agreement as reprinted and signed in Monrovia, and prepared, we understand, to discuss financial details in connection with the new loan. Until we have conferred with him, we will not be in a position to answer your question, but will be happy to do so as soon as we can.

"There has been an intimation that as the Liberian loan of 1912 cannot be redeemed and paid off until July 1st, 1927, the next interest date, the Liberian Government may not want to put out the new bonds until about that date."

Sincerely yours,

LELAND HARRISON

882.51/1930

The Secretary of State to the Secretary of the Treasury (Mellon)

WASHINGTON, April 12, 1927.

SIR: I have the honor to refer to Mr. Winston's letter of December 27, 1926⁴¹ and the Department's letters of December 31, 1926 and January 8, 1927, regarding the payment of the Liberian debt to the Government of the United States.

I am now in receipt of a letter, dated April 6, 1927, from the Receiver General of Customs and Financial Adviser of the Republic of Liberia, who is now in this country, which reads as follows:

"I have the honor to bring to your attention the debt of the Liberian Republic to the United States of America, and to advise you that matters are now being arranged with reference to the financing of

⁴¹ Not printed.

the Liberian Republic to the end that certain moneys will be available for the refunding and the settlement of its debts on July 1, 1927. In this connection it becomes important to know what is the total amount of the debt and what is the detail from which this total is determined. At the same time it occurs to me that a certain portion of this indebtedness was incurred during the year 1921 as a part of the expenses of a commission, headed by the President of Liberia, which came to America at the invitation of the American Government to negotiate a loan which had been known as the 1921 loan. The history of this loan you are perfectly familiar with and also, if I am not misinformed, you had some conversation with the Liberian Secretary of State in 1925 when he visited the United States with reference to this debt and its settlement.

I am not aware of the present attitude of the American Government with reference to the settlement of the various items comprising the original debt and such charges as were added to it during 1921. I have not been instructed to negotiate any reduction in said debt. As I am, however, about to return to Liberia, and as I am endeavoring to adjust the various matters of official business here so as to avoid necessity for further negotiations in July, I would be glad to be informed as to what will be expected from the Liberian Government with reference to closing this account so that I may cable a report thereof to the Liberian Government and upon receipt of its instructions, make due provision therefor."

It is my understanding that Mr. De la Rue is having informal conversations on the matter with an officer of your Department with a view to laying the bases for a prompt settlement.

I trust that no serious difficulties will arise to delay the final settlement and I shall be glad to furnish you, should you so desire, with any information in the files of the Department.

I have [etc.]

For the Secretary of State:

WM. R. CASTLE, JR.

Assistant Secretary

882.51/1931

The Under Secretary of the Treasury (Mills) to the Secretary of State

WASHINGTON, April 14, 1927.

SIR: I have the honor to acknowledge receipt of the letter of Assistant Secretary Castle, dated April 12, 1927, (WE: 882.51/1930). It is with great pleasure that I learn from your letter and from informal conversations with Mr. Sidney De La Rue, General Receiver of Customs and Financial Adviser of the Republic of Liberia, that Liberia is prepared to discharge in full on July 6, 1927, its indebtedness to the United States.

It is my understanding that a duly accredited representative of the Republic of Liberia will, on July 6, 1927, present to the Secretary of the Treasury, a certified check in the amount of \$35,610.46, in exchange for the demand obligations of the Republic of Liberia bearing a proper notation of payment. A statement of the advances which were made, the payments received from Liberia against these advances, is set forth in detail below and there is enclosed a statement ⁴⁸ covering the computations of the accrued and unpaid interest up to July 6, 1927:

It would seem from the letter which was quoted in your letter under acknowledgement that Mr. De La Rue is of the opinion that a certain portion of this indebtedness was incurred during the year 1921 as a part of the expenses of a commission, headed by the President of Liberia, which came to America at the invitation of the American Government to negotiate a loan. The records of the Treasury do not show that any of the advances were made for such a purpose. As will be seen from the information set out below, the Treasury made cash advances for two purposes only, viz., (1) \$18,000 to meet the expenses of the Liberian Delegates to the Peace Conference, and (2) \$8,000 to defray expenses of transportation of certain officials whom it was proposed to send to Liberia in connection with the American receivership administration and the preliminary work of rehabilitation and development of that country. The amount, date, and the purpose of each advance, together with the accrued and unpaid interest thereon to July 6, 1927, are as follows:

| | | |
|-------------------|--|----------------|
| February 6, 1919. | Advanced for the purpose of paying the expenses of the Liberian Delegation to the Peace Conference | \$12,000.00 |
| | (Liberia had passed a joint resolution authorizing the negotiation of a loan of \$20,000 to meet these expenses.) | |
| | Accrued and unpaid interest at 5% per annum from Nov. 15, 1919, the date to which interest was last paid in full to July 6, 1927 | \$4,584.78 |
| | Paid on account of interest due May 15, 1920 . . | 31.15 |
| | | <hr/> 4,553.63 |

⁴⁸ Statement not printed.

| | | |
|---|---|--------------------|
| September 10, 1919. | Additional advance for same purpose as above, the first advance being insufficient due to the unforeseen length of the sojourn of the Liberian Peace Delegates | 6,000.00 |
| | Accrued and unpaid interest at 5% per annum from April 15, 1920, the date to which interest was last paid, to July 6, 1927 | 2,167.21 |
| October 24, 1919. | Advanced for the purpose of paying the expenses of transportation of certain officials whom it was proposed to send to Liberia in connection with the American receivership administration and the preliminary work of rehabilitation and development of that country | \$8,000.00 |
| | Accrued and unpaid interest at 5% per annum, from April 15, 1920, the date to which interest was last paid, to July 6, 1927 | 2,889.62 |
| Total amount due July 6, 1927 | | <u>\$35,610.46</u> |

As evidence of the above advances aggregating in principal amount \$26,000, the Treasury now holds three demand obligations, in the form of certificates of indebtedness, of the Republic of Liberia, executed and delivered at the time of each advance, in the respective amounts, by Mr. H. F. Worley, for the Government of the Republic of Liberia, bearing interest at the rate of 5% per annum, payable semiannually. The President of the Republic of Liberia commissioned Mr. Worley as a special agent of Liberia with full power to sign for and on behalf of that government such documents or obligations as were necessary to render available the credit established by the United States Treasury, and to receive and deposit advances made from such credit as instructed by the Government of Liberia.

For your information the Liberian Government paid interest due May 15, 1919, on obligation dated February 6, 1919, for \$12,000 in the

amount of \$161.10. Under date of November 29, 1920, the Treasury received from the State Department a check for \$700 representing the unused balance of advances made by the Treasury, remaining in Mr. Worley's accounts, and not needed for the purpose for which advanced. This sum was sent to the Treasury with the suggestion and approval of the Liberian Government that it be applied on account of either principal or interest, or both, due on the Liberian indebtedness to the United States. The Treasury applied the proceeds of the \$700 check, together with \$161.10 paid May 15, 1919, on account of interest, as follows:

| Date paid | Amount of obligation | Period covered | Amount of interest |
|--------------|----------------------|---------------------------------|--------------------|
| May 15, 1919 | \$12, 000 | Feb. 6, 1919-May 15, 1919 .. | \$161. 10 |
| Dec. 5, 1920 | 12, 000 | May 15, 1919-Nov. 15, 1919 .. | 300. 00 |
| do..... | 12, 000 | Nov. 15, 1919-May 15, 1920 .. | 31. 15 |
| | | (on account) | |
| do..... | 6, 000 | Sept. 10, 1919-Oct. 15, 1919 .. | 28. 69 |
| do..... | 6, 000 | Oct. 15, 1919-Apr. 15, 1920 .. | 150. 00 |
| do..... | 8, 000 | Oct. 24, 1919-Apr. 15, 1920 .. | 190. 16 |
| | | | <hr/> \$861. 10 |

To conform to the policy of the Treasury in allocating foreign obligations to the interest payment dates of April 15-October 15 and May 15-November 15 of each year, the interest on the demand obligation for \$12,000 was considered as due and payable on May 15 and November 15 of each year, while the interest on the demand obligations for \$6,000 and \$8,000 was considered due and payable on April 15 and October 15 of each year.

Respectfully yours,

OGDEN L. MILLS

882.51/1943

The Liberian Secretary of State (Barclay) to the Secretary of State

392/M. F.

MONROVIA, 26 April, 1927.

[Received June 1.]

EXCELLENCY: I have the honour to inform you that the President of Liberia has, on behalf of the Government of Liberia, designated and appointed as Financial Representative of the Republic of Liberia in America, Dr. Ernest Lyon, the Liberian Consul-General at Baltimore, United States of America.

Dr. Lyon has been instructed and authorized to make settlement in the name of the Government of Liberia, of the debt due the

United States Government by the Government of Liberia. This settlement will be arranged on or about the 6th July 1927. I should be pleased if Your Excellency would be good enough to advise the Secretary of the Treasury of the United States, of Dr. Lyon's designation and authorization, and of the date on which the payment is to be made by him.

With sentiments [etc.]

EDWIN BARCLAY

882.51/1952

*Press Release Issued by the Liberian Consulate General at Baltimore,
July 6, 1927*

Dr. Ernest Lyon, Consul General and Special Financial Representative of the Republic of Liberia in the United States today presented to Honorable Ogden L. Mills, Acting Secretary of the Treasury, a draft for \$35,610.46 drawn by The National City Bank of New York on the Riggs National Bank of Washington, D. C., in full payment of Liberia's indebtedness to the United States under the Liberty Bond Acts. Dr. Lyon in making the payment made a few remarks appropriate to the occasion and in returning the cancelled obligations of the Republic of Liberia, Mr. Mills handed to Dr. Lyon a letter of felicitation from Secretary Mellon.

REMARKS OF THE LIBERIAN CONSUL GENERAL ON THE OCCASION OF THE
PAYMENT OF LIBERIA'S DEBT TO THE GOVERNMENT OF THE UNITED
STATES

DISTINGUISHED SIR: This monetary obligation which the Liberian Government settles today with the American Government, carries our memories back to the great World War period. Liberia at the breaking out of the War had no grievances against the Central Powers then in war with the rest of Europe. She had elected, for various reasons, to remain neutral, notwithstanding political and other pressure to force her into taking sides with the allied forces. But when the American Government after the tragic incident of the sinking of the Lusitania severed diplomatic relations with the Imperial German Government, and war was declared against the Central Powers, Liberia followed the example of her good and great friend.

In the struggle she supplied mariners from her seaport population which made maritime communication possible up and down the West Coast of Africa, after the Europeans had withdrawn in response to the call of their respective nationalities.

Her men served as links of communication on the battlefield rendering such other service, which brought down upon her national pate the ire of a German submarine, because the President of the Republic,

refused at the bidding of the commander to authorize the destruction of the wireless stations and other useful institutions in the service of the allies.

Liberia as an ally was to share in the loan measure, which authorized the President of the United States to make loans to members of the allied compact to enable them to carry on the war to a successful finish.

The Armistice, however, was declared before Liberia secured her full quota allotted. She did, however, secure a portion of the five million dollar allotment.

I come today, under official instructions, to settle that obligation covered by the face of this draft, issued through one of the most powerful and reputable financial institutions in the world. I refer to the National City Bank of New York. By this act Liberia not only sets a good example to the nations of the earth, but she emphasizes the fact that the respect which one nation entertains for another nation, is based upon the integrity and promptness in the settlement of obligations monetary and otherwise.

You will be pleased to know that the Republic is entering upon a prosperous career, that her economic conditions have been wonderfully improved since the close of the War, that the opening up of the country to American capitalists marks a new day for the Government and the people of the Republic.

It is with great pleasure therefore that I present to you this draft cancelling Liberia's war obligation, and in doing so I beg to convey to His Excellency, the President of the United States, through your good offices, the distinguished consideration and high appreciation of His Excellency, the President of the Republic of Liberia, and to express the hope that the relations of comity and good will will not only continue but will increase as the years of national life are prolonged.

I have [etc.]

ERNEST LYON

[LETTER OF FELICITATION FROM THE SECRETARY OF THE TREASURY TO THE
LIBERIAN CONSUL GENERAL]

June 28, 1927.

MY DEAR MR. CONSUL GENERAL: In accepting from your hands as Special Financial Representative of His Excellency C. D. B. King payment in full of Liberia's indebtedness to the United States, permit me to congratulate your Government on the loyal and prompt manner in which it has met its engagements.

There is but one other nation among those whose obligations have been held by this Government that has made payment of its indebtedness without recourse to funding agreements.

The blow dealt to the economic system of Liberia by the war was severe in the extreme. That Liberia has been able to re-establish and

strengthen her economic system, to regain her financial position, and to meet her public and private obligations in full constitutes an achievement that bears glowing tribute to the ability of her statesmen and to the industry of her people as a whole.

I trust that you will convey to His Excellency, President King and to your Government an expression of the admiration felt here for a nation that has been able to accomplish such things, together with the hope of this Government that a future of peace and prosperity lies before Liberia in which the traditional friendship between the two nations may find frequent and cordial reaffirmation.

I am [etc.]

A. W. MELLON

MEXICO

GOOD OFFICES OF THE AMERICAN DEPARTMENT OF STATE AND THE BRITISH FOREIGN OFFICE TO INDUCE AMERICAN AND BRITISH OIL INTERESTS IN MEXICO TO RESPECT EACH OTHER'S CLAIMS

812.6363/2453

*The Under Secretary of State (Olds) to the Commercial Counselor
of the British Embassy (Broderick)*

WASHINGTON, October 6, 1927.

MY DEAR SIR JOHN: The Department has been informed that an order appeared in the *Diario Oficial* of July 25, 1927, indicating that a Mr. H. H. Hallatt who, it is understood, is acting on behalf of the British owned company "El Aguila" has filed a request for permission to drill for oil on certain lands near Puerto Mexico, State of Vera Cruz. The Department is also informed that the lands in question are owned by B. A. Ingalsbee, E. L. Beck, George W. Cook and Burton W. Wilson, all of them being American citizens.

In view of the desirability of avoiding, so far as possible, any appearance of controversy between British and American oil interests in Mexico at this time, I am wondering if it would be possible for you to approach your Minister in Mexico requesting a report in the matter so that in case the facts as presented to the Department are verified by your representative, consideration could be given to methods for adjusting the matter without formal reference to the Mexican Government.

I enclose a copy of a translation of the request for concession as published in the *Diario Oficial* of July 25, 1927.¹

Sincerely yours,

ROBERT E. OLDS

812.6363/2454

*The Commercial Counselor of the British Embassy (Broderick) to
the Under Secretary of State (Olds)*

WASHINGTON, October 20, 1927.

MY DEAR COLONEL OLDS: I write to say that on receipt of your letter to me of October 6th, the Ambassador addressed enquiries to His Majesty's Principal Secretary of State for Foreign Affairs

¹Not printed.

and to His Majesty's Minister in Mexico City regarding an order which appeared in the *Diario Oficial* of July 25th, 1927, indicating that a Mr. H. H. Hallatt had filed a request for permission to drill for oil on certain lands, the property of four United States citizens, near Puerto Mexico, State of Vera Cruz. Sir Esme Howard has now been informed by Secretary Sir Austen Chamberlain that the facts are as stated in your letter under reference, excepting that Mr. Hallatt's application, who is acting in the matter for the United Petroleum Company, a Mexican Company organized by the Mexican Eagle and Corona Companies, was for the exploration of the lands in question, and not for a drilling permit. The abovementioned British principals, who have been interviewed in the matter by His Majesty's Foreign Office, state that their action is in conformity with the procedure that has been agreed to by all members of the Association of Oil Producers in Mexico, and that the United States companies have themselves taken similar procedure in other parts of Mexico involving, so it is believed, other than United States owners. The foregoing agreement between members of the Association is understood to cover the bulk of possible oil bearing lands in Mexico.

The British principals furthermore state that in their opinion it is undoubtedly open to the owners to safeguard their rights by bringing suit of *amparo* if they wish to do so. As the United States Government are, however, understood to be averse from such a step, the British principals say they would be quite prepared to conform to any amendment of existing agreed procedure which may be adopted by the Association of Oil Producers as a whole.

In asking me to bring the foregoing information to your notice, Sir E. Howard desires me to express the hope that it may prove satisfactory to the United States Government, demonstrating as it does, the readiness of the Mexican Eagle Company to co-operate closely with the United States interests in this matter.

Sincerely yours,

J. JOYCE BRODERICK

812.6363/2454

The Secretary of State to the Chargé in Mexico (Schoenfeld)

No. 1485

WASHINGTON, October 25, 1927.

SIR: The Department refers to your despatch 4831 of September 8, 1927,² and previous correspondence, with reference to the complaint of Mr. B. A. Ingalsbee regarding the property owned by him and

² Not printed.

certain other American citizens and the exploration thereof by British interests.

In view of the desirability of avoiding so far as possible any appearance of controversy between British and American oil interests in Mexico at this time, the Department instead of instructing you to make representations to the Mexican Government with respect to this matter addressed an informal inquiry to the British Embassy at Washington with a view to obtaining such information as might be available from British sources. In an informal communication, dated October 20, 1927, the following information was submitted to the Department in response to its request:

[Here follows the text of the informal communication from the Commercial Counselor of the British Embassy, printed *supra*.]

The Department has no knowledge of the agreement between members of the Association of Oil Producers in Mexico covering the procedure in question, and it is making inquiry in the matter. In the meantime you may be able to ascertain from sources in Mexico whether such a procedure has in fact been agreed upon, and whether American companies have themselves taken action pursuant thereto.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

812.6363/2454

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

No. 2

WASHINGTON, October 29, 1927.

SIR: The subject matter of the Department's instruction 1485 of October 25, 1927, has today been discussed with Mr. Harold Walker.³ Mr. Walker confirmed the statement made by the British principals in the case through the Foreign Office to the British Embassy in Washington. It appears that the agreement among members of the Association of Oil Producers in Mexico not to apply for concessions under the Petroleum Law covers only lands owned by members of the Association, and that in so far as lands owned by non-members of the Association are concerned, members have regarded themselves as entirely free to apply for any concessions they might desire. Mr. Walker is of the opinion that this is a situation which should be remedied, and in view of the assurance contained in the informal communication from the British Embassy, dated October 20, 1927, which was quoted to you in the Department's instruction 1485, he will raise with the Association the question of extending the agreement so as to include all lands except those owned by Mexicans.

³ Representative of the Mexican Petroleum Company.

Mr. Walker will also communicate informally with Mr. Burton W. Wilson in New York suggesting that the latter get in touch with General Andrews, representing the Aguila Company, with a view to arranging for the withdrawal of the application for the exploration concession filed by Mr. Hallatt.

In these circumstances the Department is of the opinion that it would be undesirable to make any representations to the Mexican Foreign Office in the matter at this time. You may, however, inform Mr. Ingalsbee of the steps which have been taken and suggest that he keep in touch with developments in the matter through Mr. Wilson.

I am [etc.]

ROBERT E. OLDS

S12.6363/2442

The British Ambassador (Howard) to the Under Secretary of State (Olds)

WASHINGTON, November 30, 1927.

MY DEAR COLONEL OLDS: Permit me to invite reference to letters recently exchanged between yourself and Sir J. Broderick of this Embassy regarding a request filed by a Mr. H. H. Hallatt, acting on behalf of the British-owned Company "El Aguila" for permission to explore for oil on certain lands near Puerto Mexico, in the State of Vera Cruz, belonging to four United States citizens. I now write to say that the attention of His Majesty's Government has been drawn to a case exactly analogous to that forming the subject of the above-mentioned correspondence where the Richmond Petroleum Company, a United States Company which is a member of the Association of oil producers, has applied for concessions covering lands in Mexico owned by a British interest since a date prior to the constitution of 1917. As was true with the United States citizens concerned in the case which you brought to this Embassy's notice, the British owners in the present instance, (the Mexican Estates Company, a subsidiary of S. Pearson and Sons Ltd.) are not members of the Association. This Company's property, consisting of certain lots in the district of Tonalapa amounting to 862 hectares, was at one time leased from them by the El Aguila Company and such lease was allowed to lapse. By virtue of this lease the landowner establishes a pre-constitutional title. This was the very situation which obtained in the case of the property of the United States landowners known as El Plan, where the Transcontinental Petroleum Company held a lease which they allowed to lapse. In the first instance the Richmond Petroleum Company have applied for a post-constitutional

concession (over the head of the landowners) and in the second instance the El Aguila have applied for a similar concession.

Inasmuch as the present case is thus in all essential respects parallel to that dealt with in the correspondence under reference, I am now writing, on instructions from His Britannic Majesty's Principal Secretary of State for Foreign Affairs, to enquire whether the United States Government would be prepared to use their good offices to secure from the Richmond Petroleum Company an undertaking identical with that obtained from the British principals in the former instance and conveyed to you in Sir J. Broderick's letter of October 20th viz.: an assurance that the Company will be prepared to conform (with retroactive effect in regard to this case) to any amendment of the existing agreed procedure which may be adopted by the Association of Oil Producers as a whole.

Yours very sincerely,

ESME HOWARD

812.6363/2442

The Under Secretary of State (Olds) to the British Ambassador (Howard)

WASHINGTON, December 12, 1927.

MY DEAR MR. AMBASSADOR: I have received your letter of November 30, 1927, regarding a case to which the attention of your Government has been drawn where an American company which is a member of the Association of Producers of Petroleum in Mexico, is reported to have applied for concessions covering lands in Mexico owned by a British interest since a date prior to the Constitution of 1917. I note your reference to the analogy between that case and the Ingalsbee case which was the subject of my letter of October 6, 1927, to Sir John Broderick.

In compliance with your request I have been happy to make inquiry in the proper quarters, and it gives me pleasure to inform you that negotiations are in progress in New York and that there exists the best good will among the persons concerned, namely, Mr. R. D. Hutchinson, Manager of the Aguila Company and representative of the Mexican Estates Company in Mexico, and Mr. Frank Feuille, attorney in New York for the Richmond Petroleum Company, to settle the controversy.

It appears from the report which has been made to me in the matter, however, that the conference between Mr. Hutchinson and Mr. Feuille developed the fact that the case of the British-owned interests in Tonalapa is not on all fours with the case of the Ingalsbee

property, since the Mexican Estates Company owns but a minority interest in the property in question, the majority interest of which is leased to a Mr. Yerby, from whom the Richmond Petroleum Company acquired its rights. In view of your representations, however, Messrs. Hutchinson and Feuille have, as indicated above, started negotiations looking to a reconciliation of the conflicting interests involved and I expect shortly to hear definitely from the Richmond Petroleum Company.

In this same connection you will be interested to know that the Ingalsbee matter has been arranged in this manner: Mr. Burton Wilson, a partner of Mr. Ingalsbee, has become a member of the Association of Producers of Petroleum in Mexico, and for himself and partners has entered into an agreement with the Aguila Company whereby, in case a concession is issued to the latter's new subsidiary covering lands owned by them, such concession shall be held for the benefit of the American owners. I am informed that the intervention of the British Foreign Office in this matter is highly appreciated by all parties in interest.

I am [etc.]

ROBERT E. OLDS

812.6363/2467

The British Ambassador (Howard) to the Under Secretary of State (Olds)

WASHINGTON, December 16, 1927.

MY DEAR COLONEL OLDS: Very many thanks for your letter of December 12th, notifying me of the negotiations now in progress at New York between Mr. R. D. Hutchinson, Manager of the Aguila Company and representative of the Mexican Estates Company in Mexico, and Mr. Frank Feuille, attorney in New York for the Richmond Petroleum Company, relative to the latter's application for concessions covering lands in Mexico in which the Mexican Estates Company owns a part interest. It would be most kind of you if you would inform me in due course of the result of these negotiations.

Very sincerely yours,

ESME HOWARD

812.6363/2467

The Under Secretary of State (Olds) to the British Ambassador (Howard)

WASHINGTON, December 31, 1927.

MY DEAR MR. AMBASSADOR: In your informal letter of December 16, 1927, you said you would be glad to receive such further information as I might obtain regarding the result of the negotiations under-

taken in New York between Mr. R. D. Hutchinson of the Aguila Company and representative of the Mexican Estates Company in Mexico, and Mr. Frank Feuille, attorney in New York for the Richmond Petroleum Company, with reference to the latter's application for concessions covering lands in which the Mexican Estates Company is interested.

I have just received a letter from Mr. Feuille dated December 30, 1927, referring to this matter and stating in part as follows:

"The Mexican Estates Company was admitted to special membership in the Association on November 22nd last, and is now entitled to the benefits of the above mentioned agreement, provided the company has become a signatory thereof. I have no information on this last mentioned point.

"The Richmond Petroleum Company of Mexico is a subsidiary of the Standard Oil Company of California. It has not applied for a concession upon lands owned or claimed by the Mexican Estates Company. Mr. Clay T. Yerby acquired a petroleum lease on the Tonalapa lands in the State of Vera Cruz, through contract with a considerable majority of the common owners of the tract of land, in conformity with the laws of that state. Mr. Yerby has applied to the Mexican Government for a confirmation concession. He is not a member of the Association.

"After Mr. Yerby had acquired the contract on the Tonalapa lands he obtained employment from the Richmond Petroleum Company, which employment in no manner involved that contract. Since his employment by the Richmond Company the latter has taken a three year's option from him on the Tonalapa lands. The option has not been exercised by the Richmond Company, but it is still effective.

"I learned from Mr. Robert D. Hutchinson, one of the representatives of the Mexican Estates Company, that negotiations are now being conducted with Mr. Yerby by the minority owners of the Tonalapa lands, including the Mexican Estates Company, for an adjustment of their interests.

"I am sending you this communication as a representative of the Standard Oil Company of California, under instructions from the Home Office of the Company in San Francisco. I will be pleased to furnish you any further information in this matter that you may desire."

I am [etc.]

ROBERT E. OLDS

812.6363/2467

The British Ambassador (Howard) to the Under Secretary of State (Olds)

WASHINGTON, January 12, 1928.

MY DEAR COLONEL OLDS: I write to acknowledge receipt of your letter of December 31st, 1927, and to express to you my cordial thanks for the further information with which you have supplied me regarding the result of the negotiations undertaken in New York between

Mr. R. D. Hutchinson of the Aguila Company, and representative of the Mexican Estates Company in Mexico, and Mr. Frank Feuille, attorney in New York for the Richmond Petroleum Company, with reference to the latter's application for concessions covering lands in which the Mexican Estates Company is interested.

Very sincerely yours,

ESME HOWARD

PROTECTION OF RIGHTS OF AMERICAN OWNERS OF OIL LANDS IN MEXICO⁴

812.6363/2152

The Secretary of State to President Coolidge

THE PRESIDENT: I the undersigned, Secretary of State, have the honor to refer to the Resolution adopted by the Senate on February 3, 1927, which is quoted below:

"*Resolved*, That the Secretary of State be requested, if not incompatible with the public interest, to give the Senate the following information:

"1. The names of American individuals and American corporations owning or claiming oil lands or oil concessions in Mexico alleged to have been acquired prior to May 1, 1917; and if the names of all such persons and corporations are not known to the Department, then give the names of those that are known.

"2. What individuals or corporations, foreign to Mexico, if any, have accepted the law or constitution of Mexico relating to oil lands and oil concessions, or titles based upon rights acquired prior to May 1, 1917.

"3. The names of American persons or corporations so owning or claiming oil lands or oil concessions in Mexico that have refused to accept the Mexican law or constitution applying to such concessions.

"4. Has the department given any advice or instructions to any of such American persons or corporations; and if so, what instruction or advice has been given.

"5. Supply the Senate with copies of all correspondence between the Department, or any of its officials, and any of such persons or corporations so owning or claiming oil lands or oil concessions in Mexico."

1. In response to the inquiry as to the names of American individuals and American corporations owning or claiming oil lands or oil concessions in Mexico alleged to have been acquired prior to May 1, 1917, I beg to state that, according to the Department's information, no oil concession was granted before the date mentioned by the Government of Mexico to any American corporation or individual. The Department is informed that American citizens owning oil lands or oil leases

⁴ For previous correspondence, see *Foreign Relations*, 1926, vol. II, pp. 605 ff., and pp. 676 ff.

before that date acquired them by arrangements with the previous owners thereof, and under the laws then existing.

All American individuals and corporations who purchased lands in Mexico before May 1, 1917, acquired, under the laws then in force, at least after November 22, 1884, the right to extract petroleum therefrom.

Attention is invited to these laws under which the acquisitions in reference were made. The Mexican Mining Law of November 22, 1884, reads in part:

ARTICLE VI. Foreigners may acquire mining property on such terms and with such limitations as the laws of the Republic grant them the capacity to acquire, own and transfer ordinary property . . .

ARTICLE X. The following substances are the exclusive property of the owner of the land, who may therefore develop and enjoy them, without the formality of entry (*denuncio*) or special adjudication: . . .

Subdivision 4. . . . salts found on the surface, fresh and salt water, whether surface or subterranean; petroleum and gaseous springs, or springs of warm or medicinal water. In order to develop these substances the owner of the land shall subject his operations to all rules and orders of a police nature.

The Mining Law of June 4, 1892, contained the following:

Article IV. The owner of the land may freely work without a special franchise (*concesión*) in any case whatsoever, the following mineral substances: mineral fuels, oils and mineral waters.

Article V. All mining property legally acquired and such as hereafter may be acquired in pursuance of this law shall be irrevocable and perpetual, so long as the federal property tax be paid, in pursuance of the provisions of the law creating the said tax.

Article II of the Mining Law of November 25, 1909, reads:

The following substances are the exclusive property (*propiedad exclusiva*) of the owner of the soil:

1. Ore bodies or deposits of mineral fuels, of whatever form or variety.
2. Ore bodies or deposits of bituminous substances.

Attention is also invited to Article 27 of the Mexican Constitution of 1857* in force during the period the said holdings were acquired by American individuals and American corporations. This Article, in part, provided that:

Private property shall not be taken without the consent of the owner, except for reasons of public utility, indemnification having been made.

Ever since the question at issue arose during the administration of President Wilson, the Government of the United States has consistently maintained and continues to maintain that there should be no question as to the security of valid and vested rights which have

* See *The Mexican Constitution of 1917 Compared With the Constitution of 1857* (Washington, Government Printing Office, 1926).

been acquired by American citizens in accordance with Mexican laws as they existed at the time of their acquisition. This attitude of the Government was asserted by the American Commissioners in their conferences in Mexico City in 1923,⁶ and there is no departure from it in the understanding which they reached with the Mexican Commissioners; and the Government of the United States has maintained this position in the recent diplomatic correspondence upon the question between the United States and Mexico.

It is impossible for the Department of State to furnish the Senate with a complete list of the land acquisitions in Mexico before May 1, 1917, by American individuals and American corporations, as the names of all such persons and corporations are not known to the Department. However, replying specifically to the first inquiry contained in the Resolution, I give below the names of American individuals and American corporations who, according to the Department's information, own or claim lands in Mexico alleged to have been acquired prior to May 1, 1917, and which have been found to contain or are supposed to contain subsoil deposits of petroleum:

American International Fuel and Petroleum Co.

Anderson, M. C. *et al.*

Atlantic Lobos Oil Co.

Axtell, Dr. B. C., Estate of

Balch, Ernest

Beckman, A. W.

Cortez-Aguada Petroleum Co.

Cortez Oil Corp.

Dalton, W. H.

Doub, D. L.

East Coast Oil Co.

Exendine, Jasper

Hall, G. L.

Hall, J. L.

Harris, G. S.

Hawkins, L. O.

Huasteca Petroleum Co.

Hodgins, P. J.

Johnson Land and Fiber Co.

Kearney, Ed. T.

Kettering, Mrs. Lena

Lot Seventeen Oil Co.

Mexican Coal and Coke Co.

Mexican Crude Rubber Co.

Mexican Gulf Oil Co.

Mexican Petroleum Co. of California.

Mexican Plantation Co.

Mexican Sinclair Petroleum Corp.

Mexico Land Securities Co.

⁶ See *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925).

New England Fuel Oil Co.
Oil Fields of Mexico.
Panuco Buston Oil Co.
Pen Mex Fuel Co.
Postelle, J. M.
Rathbone, Charles
Rhoades, J. Beach
Sutherland, W. H.
Tamiagua Petroleum Co.
Tamesi Petroleum & Asphalt Co.
Tampico Oil and Refining Co.
Texas Petrolene & Asphalt Co.
Tillman, A. N.
Tuxpam Petroleum Co.
Weill, Melville K.
Wilson, Burton W. and associates
Wright, M. P.
Yates, Mrs. Carrie.

2. In answer to the second question I desire to state that, according to the Department's information, the following individuals or corporations, foreign to Mexico, have applied for confirmatory concessions under the provisions of the so-called petroleum law of Mexico,⁷ regulatory of Article 27 of the Mexican Constitution of 1917:⁸

The Penn Mex Fuel Company,
The Texas Petrolene and Asphalt Company,
The East Coast Oil Company, and
The New England Fuel Oil Company.

I understand that the first two mentioned companies are not actively producing petroleum in Mexico and that the last two own no fee properties in that country.

The Department has not been informed that a concession has actually been granted to any of these four companies, and in this relation may point out that Article 27 of the Mexican Constitution of 1917 seems to prohibit the granting of such a concession to a foreign corporation, and that this interpretation of the Constitution finds support in the opinion of the Attorney General of Mexico, published in the *Diario Oficial*, December 8, 1917, wherein he held that in view of the Constitutional provisions referred to, alien corporations shall in no event acquire lands, waters and their appurtenances in Mexico.

3. In response to the third inquiry contained in the Resolution, it may be said that, according to the Department's information, the American persons or corporations listed under the answer to Question No. 1, with the exception of the four corporations listed under the

⁷ See *Foreign Relations*, 1925, vol. II, pp. 531 and 551. For text of petroleum law, see *Diario Oficial*, Dec. 31, 1925. For text of the regulations, see *ibid.*, Apr. 8, 1926.

⁸ *Foreign Relations*, 1917, p. 951.

answer to Question No. 2, have refused or have failed to accept the provisions of the above mentioned so-called petroleum law of Mexico.

The Department is further informed that the following American persons or corporations (or individuals or corporations foreign to Mexico) holding their titles in the name of Mexican companies, have refused to accept the new petroleum law :

- Atlantic Refining Company,
Subsidiaries: La Atlantica Compania Mexicana Productora y Refinadora de Petroleo, S. A.
D. W. Johnson & Cia., Succesores.
- Atlantic Gulf Oil Corporation,
Subsidiary: Cia. Petrolera del Agwi.
- Humble Oil and Refining Company,
Subsidiary: Cia. Petrolera Tamaulipas, S. A.,
- Island Oil and Transport Corporation,
Subsidiary: Cia. Petrolera Capuchinas, S. A.
- Standard Oil Company of California,
Subsidiary: Richmond Petroleum Co. of Mexico, S. A.
- Standard Oil Company of New Jersey,
Subsidiary: Cia. Transcontinental de Petroleo, S. A.
- Leopold Newborg,
W. L. Hernstadt,
Malcolm C. Anderson,
Mexican company: Cia. Petrolera Los Chijoles, S. A.
- Anglo-Mexican Petroleum Company, Ltd.
Subsidiary: Cia. Mexicana de Petroleo "El Aguila", S. A. (British Eagle)
- Royal Dutch Shell,
Subsidiary: Cia. Mexicana Holandesa, "La Corona", S. A. (Dutch Corona).

The Department understands that the American and Mexican corporations hereinabove listed as having refused or failed to accept the provisions of the Petroleum Law of Mexico control about 90% of the actively petroleum producing lands of Mexico acquired before the Mexican Constitution of 1917, and that they produce about 70% of the oil produced in Mexico.

Replying to the fourth inquiry, I beg to say that the Department of State has not given any advice or instructions to any American persons or corporations with regard to the above mentioned petroleum law. It has supplied interested American citizens or their counsel with full information regarding the general position of the Government of the United States with respect to the rights of American nationals owning property in Mexico, so that any action taken by such nationals might be based upon a complete understanding of the position of the Government of the United States in the premises. The Department has furnished such nationals with translations of the said petroleum law and of the regulations issued pur-

suant thereto, as well as with copies of the recently published diplomatic correspondence between the Government of the United States and the Government of Mexico dealing with such law and regulations as well as with the so-called Alien Land Law. The position of the Government of the United States is clearly stated in that correspondence.

5. Referring to Paragraph 5 of the Resolution, I may say that the correspondence between the Department and persons and corporations owning or claiming oil lands in Mexico has been necessarily voluminous. This correspondence consists almost exclusively of inquiries or information concerning the Mexican Petroleum Law and the official attitude of this Government with respect thereto. As above stated, the Department has consistently refrained from giving advice and counsel to such persons and corporations as to the course which they should themselves pursue. I cannot see that the transmission of the correspondence would throw any light upon the situation, and I hesitate to make it public without the consent of the interested persons and corporations, especially in view of the position taken by the Mexican Government to the effect that appeals by such individuals and corporations for the interposition of their own Government would possibly involve forfeiture or serious prejudice of their rights in Mexico.

Respectfully submitted,

FRANK B. KELLOGG

WASHINGTON, *February 15, 1927.*

812.6363/2238

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 3954

MEXICO, *April 11, 1927.*

[Received April 18.]

SIR: Referring to my despatch No. 3924 of April 6 last,⁹ I have the honor to inform the Department that the continued insistence of the Mexican Government upon at least formal compliance by foreign interests with the Petroleum Law and Regulations,¹⁰ including their retro-active and confiscatory features, is apparently about to produce another and what may prove to be a decisive crisis for these interests.

It will be recalled that in January last the Mexican Government cancelled a number of drilling permits previously issued to certain foreign oil companies, and that, since then, it has consistently declined to grant such permits to these companies, all on the ground that the companies in question had failed to comply with the petroleum law and regulations in respect of their pre-constitutionally acquired

⁹ Not printed.

¹⁰ For text of petroleum law, see *Diario Oficial*, Dec. 31, 1925. For text of the regulations, see *ibid.*, Apr. 8, 1926.

leaseholds or fee title lands, or both. Until recently the companies affected have carried on no drilling for which the permits cancelled or refused were required.

It is thought by the companies that a suspension of drilling operations can not continue if the industry is to exist in this country. Hence the companies are faced with one of three alternatives: (1) to satisfy the pre-requisite of complying with the law and regulations including their retroactive and confiscatory features, in order to obtain drilling permits; (2) to drill wells without such permits; or (3) to shut down production entirely.

As to the first of these alternatives, the principal companies involved are bound by a mutual agreement, of which the Department is informed, not to solicit or (as the British El Aguila, the Dutch Corona, and the American Transcontinental Companies did) if they have solicited, not to accept, the so-called confirmatory concessions; or (in the case of the Aguila Company) not to operate under such concessions if issued until due notice shall have been given the other companies. With the exceptions indicated, I am informed that the companies do not propose to seek drilling permits upon the condition precedent laid down by the Mexican Government. It should be noted, however, that the Corona Company last week received the Government's confirmatory concessions for which the Company had applied about the middle of 1926. The Aguila Company, which had also applied for such concessions last year, expects in the very near future to be presented with confirmatory concession. These concessions, parenthetically, are stated to be of the "unilateral" type referred to in my despatch No. 3405, of December 21, 1926.¹¹ They are said not to require the counter-signature of the concessionaire since the Mexican Government contends—and Mexican counsel for the Aguila and Corona Companies so advised—that the fact of having made application for confirmatory concessions implied recognition by these companies of the petroleum law and regulations *in toto*. The American owned Transcontinental Company formally withdrew its applications and considers them null and of no effect, a position which is not concurred in by the Mexican Government.

Meanwhile, as above indicated, drilling permits have been cancelled or refused. The refusal of the companies to accept or to apply for confirmatory concessions on pre-constitutional rights is being made the pretext for denial of drilling permits. The drilling permit is in the nature of a police regulation pure and simple. Hence the Mexican Government in effect is saying to these companies: "Unless you recognize our right to convert your pre-constitutional leaseholds and fee titles into a Government concession granting you a beneficial use of the oil lands acquired by you before 1917, we will deny you the

¹¹ Not printed.

right to use these lands at all for the purpose for which you acquired them, and to that end we will decline to sanction the issuance of the permit contemplated by the police regulations affecting the industry." In other words, a substantive right is to be nullified by means of the application of an adjective rule.

But, I am informed, if these foreign interests are to meet their contractual obligations for the delivery of petroleum and its products, they must continue to produce, and the indications are they will drill wells without permits on lands lawfully theirs by lease or purchase and acquired before 1917, until action is taken by the Mexican Government involving their right to invoke *force majeure* in derogation of their contracts. In fact some of the companies are now doing this. I learn that the Mexican Gulf Company is drilling without permits but under an *amparo* decree granted by a Federal District Court against the enforcement of the petroleum law and regulations. The Huasteca Company under a similar court decree is doing or will shortly do likewise. The Cortez Aguada Company, a subsidiary of the Atlantic Refining Company, is about to undertake drilling operations on pre-constitutional lands without a permit, though not under the doubtful aegis of an *amparo*.

I am informed that all the affected companies are now awaiting the decision of their New York executives as to whether they should not frankly adopt this policy as proper in law and equity. The second alternative above mentioned is thereby forced into the foreground.

As for the third alternative, namely the complete suspension of all operations, I am informed that for the first time in recent years such a course is a distinct possibility and is being seriously considered since the larger producing companies are stated to recognize their common interest in a basic settlement which will enable them to pursue their business without unjustifiable obstacles placed in their path by methods of indirection or arbitrary interference.

In these circumstances the Department may expect soon to be called upon to face an acute situation involving precisely the "concrete cases" of violation of international law through confiscation, which were ostensibly alluded to in the Mexican Government's note of November 17, 1926,¹² and which that Government then stated its disposition to "repair". Such concrete cases, it may be remarked in passing, are already so numerous in other fields as to warrant grave doubts of the sincerity of the Mexican Government's alleged disposition to grant reparation or, indeed, of its capacity to do so. It therefore remains for us to determine how numerous such cases must become, before the almost unique career of innovation in international practice thus far pursued by the Mexican Government shall be checked.

I have [etc.]

JAMES R. SHEFFIELD

¹² *Rareign Relations*, 1926, vol. II, p. 671.

812.6363/2290

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 4275

MEXICO, June 15, 1927.

[Received June 23.]

SIR: Referring to the Embassy's confidential despatch No. 3954 of April 11, last, and to its confidential despatch No. 4096 of May 11, last,^{12a} with regard to the situation brought about by the refusal of the Mexican Government to issue drilling permits to petroleum companies which have failed to seek confirmatory concessions on pre-constitutional lands, I have the honor to quote below in translation the text of an official statement published in this morning's local press and issued by the Department of Industry on this subject:

"The Petroleum Agent at Tampico communicated to this Department that some companies, notwithstanding the fact that the respective drilling permits had been denied to them, were drilling and that some of them already had wells under exploitation.

"For this reason the Department ordered the closing of those wells by shutting the valves and securing them with locks, but this measure was useless since the companies, without any official authorization, broke the locks and continued to extract petroleum.

"In view of the fact that this was occurring with great frequency, the Department of Industry, Commerce and Labor requested that of War and Marine to supply it with (military) escorts with a view to preventing by means of the Federal forces that its decisions in these cases should be frustrated. Hereafter these escorts will remain at all places where the Department of Petroleum orders the closing of a well, since these closings are ordered for perfectly justified reasons, especially in the cases where the companies drill without fulfilling the requirements imposed upon them by the laws and, therefore, without having the permission of the Federation."

It will be observed that the last sentence of this official statement clearly admits the connection between noncompliance on the part of the companies with the requirement of the Petroleum Law and Regulations regarding confirmatory concessions and the refusal of the Government to grant drilling permits. The use of the Federal military to enforce this plainly confiscatory action would seem to constitute further aggravation of a situation which appears to be growing increasingly untenable.

I have [etc.]

H. F. ARTHUR SCHOENFELD

^{12a} Latter not printed.

812.6363/2296

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 4338

MEXICO, June 25, 1927.

[Received July 6.]

SIR: Referring to my confidential despatch No. 4096 of May 11, 1927,^{12b} with regard to a resolution passed on April 27, 1927, by the Petroleum Producers' Association in New York authorizing their respective companies to proceed with their normal activities (i. e., to drill) in case acceptable drilling permits are refused, I have the honor to report that, according to information received today by the representative of one of the interested companies, the following companies have already commenced drilling operations on pre-constitutionally acquired lands, without having received drilling permits from the Mexican Government with respect thereto: Huasteca, Sinclair Oil, El Aguila, Mexican Gulf, Transcontinental, and Cortez Aguada.

I have [etc.]

H. F. ARTHUR SCHOENFELD

812.6363/2305 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

[Paraphrase]

MEXICO, July 14, 1927—1 p. m.

[Received 7:17 p. m.]

264. Embassy's despatch No. 4338, June 25. Embassy has been informed that several of the oil companies which had intended to drill on pre-Constitutional lands without permits received instructions here on July 11 not to proceed with this program for the present. I understand that the following companies are among those which received such instructions: the British-owned El Aguila, the American-owned Transcontinental and Huasteca, and probably Cortez Aguada, a subsidiary of the Atlantic Refining Company. Information regarding the reasons for this reversal of the original intention of the companies is not available in petroleum circles here.

SCHOENFELD

812. 6363/2339

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 4617

MEXICO, August 8, 1927.

[Received August 17.]

SIR: I have the honor to refer to the last sentence of my confidential telegram No. 264 of July 14, last, reporting that no information

^{12b} Not printed.

was available in Mexico City as to the reason for the decision of certain petroleum companies not to proceed with their original intention of drilling petroleum wells on preconstitutional properties without the drilling permits for which they had applied and which had been refused by the Mexican Government.

I am now informed that the initial step in the reversal of this program was taken by the Huasteca Petroleum Company as the result of a visit to New York of one of its Mexican Counsel, who argued that the decision of this and other companies to drill without permits amounted to a conspiracy against the Mexican Government. The argument of this Mexican lawyer apparently sufficed to cause at least a temporary hesitation on the part of this company which was followed by certain other companies, particularly those which had not secured judicial decisions covering such operations, as was the case with some of them. This visit to New York took place about the beginning of July and about the same time, in fact on July 1, the Secretary of Industry, Señor Morones, informed a representative of the American company above mentioned that the Government intended, "come what may", to prevent, by force of arms if necessary, the drilling of wells on preconstitutional lands which had not been made the subject of petitions for confirmation of rights. In view of these facts, and in view further of the onset of the rainy season, which made drilling operations in any case more difficult than usual, the companies apparently decided to defer proceeding with their original plan of drilling without permits. Such a decision was also facilitated somewhat by the general overproduction of petroleum elsewhere than in Mexico which eased the pressure upon the companies to continue maximum production.

For the moment, therefore, the petroleum situation is stationary, though there is much anxiety among representatives of the companies in Mexico regarding future developments. Some of them feel that great progress has been made since the time when the Mexican Government uttered dire threats of destruction for failure to comply with retroactive and confiscatory features of legislation affecting the industry; but this feeling does not serve to allay the anxiety of the companies as to the course they should follow in the future. Others seem to think their principal hope lies in the possibility that the Mexican Government itself, under the pressure of financial necessity and in the presence of the firm resistance of the United States Government to its confiscatory policy, will find means of abrogating the objectionable features of the existing law and thereby enable the industry to revive.

I have [etc.]

H. F. ARTHUR SCHOENFELD

812.6363/24213

The Ambassador in Mexico (Morrow) to the Secretary of State

[MEXICO,] November 8, 1927.

[Received November 12.]

MY DEAR MR. SECRETARY: I have now been in Mexico a little over two weeks. A great deal of time, as you so well know, has been taken up in necessary formalities. I have had an opportunity, however, to talk with several business men of Mexico, including Mr. Legorreta, Director of the Banco Nacional de Mexico; Mr. Woodull, the Mexican Manager of the American Smelting and Refining Co.; Mr. Hugh Rose, the Managing Director of Santa Gertrudis Mines; Mr. H. Weldon, local Manager of the Bank of Montreal; Mr. G. R. G. Conway, Managing Director of the Mexican Light & Power Co.; Mr. Matton, of the British American Tobacco Co.; Mr. Hilary N. Branch, local representative of Huasteca Petroleum Company; and Messrs. Hogan and Basham, prominent American lawyers here. I shall expect later to make some report on the general Mexican economic condition. The despatches on economic conditions sent since I have come here have been largely based upon such information as we are able to receive from newspapers or other documents, or personal conversations with such persons as are referred to above.

At the formal presentation of my letters of credence to the President I met formally all the members of the President's Cabinet. The only members of the Government I have talked with, however, are the President himself, Mr. Estrada, the Acting-Minister of Foreign Affairs, and Mr. Montes de Oca, the Minister of Finance. With no one of these except the President have I had anything like a full talk.

When I made my first call upon the Acting-Minister of Foreign Affairs, as referred to in despatch No. I, of October 31st,¹³ Mr. Estrada, after courteously expressing his pleasure that I had come to Mexico, took occasion to say to me that it was the desire of President Calles that I should take matters up personally with him. He further stated that in Mexico the system of administration was a "Presidential system" and that as the President alone had the authority to make decisions on behalf of the Government he hoped that I would at all times discuss with President Calles matters of difference between the Governments. Mr. Estrada's manner of expressing this opinion made quite an impression upon Mr. Schoenfeld, who accompanied me upon this formal call and acted as interpreter.

On Saturday, October 29th, I presented my letter of credence to the President. What formally took place on that occasion is also re-

¹³ Not printed.

ferred to in despatch No. I, of October 31st. After I had read my brief remarks and the President had replied, he signified that he desired to have a conversation with me. I sat down beside him and we had four or five minutes' conversation. Mr. Martinez de Alva acted as interpreter. In this conversation the President expressed the hope that I would feel free at all times to come directly to him, stating that he was not a diplomat, and that he thought many of the matters as to which there were differences of opinion between the two governments could be readily adjusted in personal meetings, but that diplomatic notes tended to separate further the Governments. I expressed my appreciation of the cordiality of my reception by his Government and the people of Mexico, and stated that I would be very glad to avail of the courtesy extended to me of talking things over with him personally from time to time. He then repeated to me that he did not want me to consider this invitation to take things up with him personally as merely a formal invitation, that he did earnestly desire that the matters in difference between the Governments be settled amicably, and he thought this could best be accomplished by taking questions up personally.

On Monday afternoon, October 31st, Mr. Thomas A. Robinson, a son-in-law of President Calles, and an American citizen, called upon me and on behalf of the President extended to me an invitation to breakfast with the President on Wednesday, November 2nd, at his ranch at Santa Barbara, about twenty miles east of Mexico City. Mr. Robinson stated that the President would be glad to send a car for me at 6:15 a. m., and that we could then go to the Castle of Chapultepec, where the President would join us and motor from there to the ranch. I accepted the invitation. After consultation with the Embassy staff, it seemed wise for me to go alone to this meeting as it was a social invitation, and despite the fact that such talk as I might have with the President would necessarily be through an interpreter. On Wednesday morning at 6:15 Mr. Robinson, accompanied by Mr. Smithers, also an American citizen and a friend of President Calles, called at the Embassy for me. We motored to the Castle of Chapultepec, which the President occupies as a home in the City of Mexico. There the President joined us. We motored from there to the ranch, reaching the ranch shortly after 7 o'clock. After a cup of coffee the President walked us over his ranch, which contains approximately 160 hectares, which is a little less than 400 acres. The house is a small, simple one. The stables, however, which are in process of construction, are quite elaborate. The President stated to me that he contemplated having stable capacity for 200 Holstein cows. He is apparently planning when he leaves the presidency to run what would be called in the United States a dairy farm. An

irrigation system consisting of pumps, cement pipes, ditches, etc., is in process of construction. After perhaps an hour's walk we returned to the house and had breakfast. After breakfast the President discussed affairs in Mexico generally, particularly the reforms that he has been trying to bring about in connection with lands and education. None of the questions under discussion between the two governments were taken up by him, nor were they taken up by me, the whole meeting being a purely social one, his purpose evidently being to get acquainted. I asked him something about his own early education, his teaching experience and his new educational system. I also asked him about his agricultural policy. During the conversation the President's friend, Mr. James Smithers, acted as interpreter. We left the ranch at about 10 o'clock, reaching the City of Mexico at about 11. On the way back the President talked about the amount of money he had spent on roads and agriculture and education, and insisted again that he wanted the opportunity to go over with me in person the various points on which the two governments differed.

Mr. Legorreta, the Director of the Banco Nacional de Mexico, called on me Thursday, November 3rd, and told me the President had a long talk with him that morning, that the President had expressed himself as being very much pleased with his conversation with me at the ranch but somewhat disappointed that I did not bring up some of the questions in dispute. He told me further that the President had told him that he intended to get me to go out again to the ranch as soon as it could be arranged. On Saturday afternoon, November 5th, Mr. Robinson again called on me and told me that the President would be glad to have me breakfast again with him at the ranch on Tuesday morning, November 8th. I felt a little reluctant to do this because of the publicity that had attended the first meeting, but I asked Mr. Robinson to tell the President that I would be very glad to come if it were at all possible for me to arrange it. On Monday, November 7th, I sent for Mr. Robinson and told him that I would be glad to go to the ranch for breakfast on Tuesday if the President really desired that, but that if it were equally agreeable to the President I would be glad to go to breakfast at some later date. Mr. Robinson advised me late Monday afternoon that it was entirely agreeable to the President to put the breakfast off, but that he would be pleased to see me at the Castle of Chapultepec at 11 o'clock Tuesday morning, November 8th, if that were convenient to me.

Accordingly, I went to the President's home this morning at 11 o'clock. Again I went alone, reaching this decision after consultation with the Embassy staff. I felt that he might talk more frankly

and I might get a clearer picture of his mind if I showed my confidence in him. I think the result fully justified this position.

My talk with the President this morning lasted perhaps an hour and a half. Mr. Robinson and Mr. Smithers were present, Mr. Smithers acting as interpreter. Mr. J. Reuben Clark and myself had made a very careful study of the record with reference to oil, going back particularly to the Carranza decrees,¹⁴ to the decision in the Texas Oil Company case¹⁵ and to the Warren-Payne record¹⁶ in which so much emphasis was laid upon respecting and enforcing the principles of the decisions in the Texas case to the effect that Paragraph 4 of Article 27 of the Constitution was not retroactive. Mr. Clark and I had both felt that it would be very difficult to find a compromise that would really maintain the principle of the Warren-Payne meetings and of the State Department correspondence unless there could be an affirmance of the Texas Oil Company case. It also seemed to us both that an affirmance of the Texas Oil Company case was more or less a natural thing for the courts to do because substantially the same principle was involved in the so-called Carranza decrees and in the legislation of 1925.

The President opened the conversation this morning by asking me directly what solution I thought could be found for the oil controversy. I told him that I thought an almost necessary preliminary to any solution would be a clear decision of the Supreme Court following the Texas Oil Company cases. I told him that I had been a lawyer, and it was not easy to get out of the habit of talking as a lawyer, and asked him to bear with me while I explained to him the Texas Oil Company case as I understood it. I then quite slowly, with the interpreter translating to him sentence by sentence, explained to him that the Carranza decrees had attempted to hold Paragraph 4 of Article 27 of the Constitution of 1917 to be retroactive as to the subsoil of oil lands, that those who had brought the *amparos* had asserted, first, that President Carranza had no official power to act by decree in the way he had acted, and, second, that even if he had been given such official power it would be violative of article 14 of the Constitution, which provides that no law shall be given a retroactive effect. I explained to him further that the Supreme Court of Mexico in the Texas case had clearly held that the question of Carranza's official power to act by decree did not arise because the decrees issued by him and called in question had been officially ratified by the legislative body, and that, therefore, his decrees had the full effect of laws. The Court then went on to

¹⁴ For text of the decree of Mar. 31, 1917, see *Foreign Relations*, 1917, p. 1053.

¹⁵ See *ibid.*, 1921, vol. II, pp. 461 ff.

¹⁶ See *Proceedings of the United States-Mexican Commission convened in Mexico City, May 14, 1923.*

hold that these laws (made by Carranza decree and legislative ratification) could not constitutionally be given retroactive effect. In the Texas case, therefore, as in the pending cases, it was not a decree of the executive but a law of Congress, and executive acts thereunder, which were held to be violative of Article 14 of the Constitution. I further said to the President that I had been expecting that the courts would hand down a decision sustaining the Texas cases and that if such a decision came down I thought the ground would be cleared for a satisfactory adjustment of the oil matter.

He then gave me quite a full description of his troubles with the oil companies. He said that the Government of Mexico had never wanted to confiscate any property. Least of all did they want to confiscate the oil properties; that they needed the revenues, and obviously "they did not want to commit suicide;" that the act of 1925 was a most necessary piece of legislation at the time because the country was in considerable disorder and there was an extreme radical wing whose wishes had to be met in that legislation; that he had thought the grant of the 50-year right as good as a perpetual right to take out the oil, and that such a grant would satisfy every practical purpose, but that the oil companies had not co-operated with him at all, but in fact their representatives had boasted all over Mexico that they did not need to obey the laws of Mexico. To this I responded that, without defending the attitude of the oil companies toward Mexico or toward the Mexican courts, there was a very real principle which they had asserted and which the American Government had felt it necessary to assert on their behalf: that a 50-year right to take oil out of a piece of ground might be fully as good as a perpetual right, but it was certainly arguable that if one administration could cut the right down from a perpetual right to a 50-year right, a later administration might cut it down from a 50-year right to a 40-year right, or a 30, or a 10 or a 1-year right, and that it seemed to me in the interests of Mexico as well as in the interests of the United States that that question should be cleared up.

The President then asked me if I thought a decision of the court following the Texas case would settle the main controversy in the oil dispute. I told him I thought such a decision would remove the main difficulty. He then rather startled me by saying that such a decision could be expected in two months. I said to the President that it was important that during the time the cases are pending before the court no overt act which could be called confiscation should take place; that if difficulties were not to increase, pending a decision by the courts, there should be no change in the *status quo*.

I think it proper to say that there was nothing in the President's conversation to indicate that he intended to direct the courts to make

a decision. In fact, he would doubtless assert that he had no such power. His words were entirely consistent with the fact that he had knowledge of what the courts already had in mind. At the same time it must be remembered that it is generally believed in this country that the courts are not independent of the Executive. While this may seem quite shocking to those trained in American jurisprudence and English jurisprudence, it is not an essentially different situation than has existed in all early governments and is substantially the same situation that existed in England two or three hundred years ago. The King's Bench was originally more than the name of the court; it was the bench that belonged to the King, and administered justice for him.

After the talk about the oil, the President then took up the question of the railroad. He told me that he was determined to see a better railroad administration, that he had asked Sir Henry Thornton, of the Canadian Government Railroad, to come down and make a report to him, and that even though it meant sweeping out a lot of holders of jobs who were intrenched in the railroad he was prepared to do so. He also spoke of his desire to expedite the claims settlements. He spoke of his earnest desire to improve agricultural conditions in Mexico and in this connection stated that Mexico was not ready yet for industrial development, that he hoped that a betterment of agriculture here would lead [*tend?*] to create trade with the United States, that industrial products should come into Mexico from the United States during the next generation, and that Mexico would not be ready for industrial development until long after his time.

I returned from the President's Castle to the Embassy. A half hour later Mr. Robinson called upon me and told me that the President was very anxious that none of the oil people should know at all about our conference, that his greatest difficulty in dealing with the oil question in a proper way had been the oil people themselves, and that if they knew that a Supreme Court decision was likely to come down within a short time they would again begin to intrigue.

Despite the informality of this whole conversation I am setting it out somewhat fully to you. I think it is of extreme importance that the oil people shall, if possible, be kept from complicating the situation until the courts have had an opportunity to act.

I have nothing to add about the general political situation down here to what has been sent you in despatches. I think it is true that President Calles has been greatly strengthened by the rigorous method in which he has handled the recent revolutions. There are some people who feel that the revolts were not real revolts. I think, however, the best opinion is that it was a question of who struck first; it was a case of "thy head or my head", which again was pretty much the rule in English history until well past the Tudor days.

There is difference of opinion as to whether President Calles and General Obregon will remain together, but I think there are no real indications at present that they have quarreled. A year, however, in Mexico is a long time. I must say that my personal impression, for whatever it is worth, is that President Calles seemed to me to be a man who wanted to do as much as he could during this last year of his term and then get out. The pressure, however, upon him by those who share the advantages of office will certainly be very great, and much may happen as a result thereof.

In both of my talks with the President I have been impressed by his strength, his earnestness, and his apparent sincerity. I think he is a strong man, sincerely devoted to his country and capable of going a long way in either the right or the wrong direction. . . .

With kindest regards [etc.]

DWIGHT W. MORROW

812.6363/2433A

The Under Secretary of State (Olds) to the Ambassador in Mexico (Morrow)

WASHINGTON, November 16, 1927.

DEAR MR. MORROW: Your long letter addressed to the Secretary arrived in due course. After reading it we took it across the street, where it now is. We expect to follow this course with all important communications which may come from you.

Naturally the report of your preliminary conversations is exceedingly interesting. I can not help feeling that you are on the right track and have already made real progress. At any rate it delights us all to see the old method of long-armed dealing scrapped, and the contrary method of direct personal contact tried. I am sure that the lines along which you are working are absolutely sound.

The intimation about the Supreme Court decision is, of course, important. We have had intimations on this subject before, but this one seems more reliable than the others. Anyhow, I agree that the oil companies ought not to get off the reservation for the time being. They have been very quiet lately. I told them when you left that there would not be anything doing until you found your way about in Mexico, and that it might be several weeks before anything affecting their interests happened. Meanwhile they would have to be patient. They have, as you know, called attention to one or two moves made by the Mexican Government, which seemed to them rather disturbing, but they have not asked for any conferences here. We shall bear in mind your suggestion that nothing be said to them concerning the Supreme Court decision. . . .

With warm regards [etc.]

ROBERT E. OLDS

812.6363/2421

The Secretary of State to the Ambassador in Mexico (Morrow)

No. 27

WASHINGTON, November 16, 1927.

SIR: The Department understands from oral statements made to it by representatives of American oil interests in Mexico, as well as from written communications dealing with specific cases which have recently been forwarded to you for your information, that the Mexican authorities are not only refusing to grant drilling permits to companies which have failed to apply for confirmatory concessions on their pre-constitutional land holdings, but are also declaring such lands to be free lands and are issuing concessions thereon to unrelated third parties. It appears, for example, from your despatch No. 48 of November 8, 1927,¹⁷ and its enclosures that while the Mexican authorities have expressed to the interested parties a willingness to obey judicial orders issued in pursuance of appropriate *amparo* actions, in the absence of such judicial orders the oppositions filed by pre-constitutional owners against third party concessions are uniformly rejected. In this connection your attention is invited to the despatch from the American Consul General in Charge at Tampico, dated October 27, 1927,¹⁷ a copy of which was forwarded directly to the Embassy, reporting the receipt of information from Messrs. Alex Smith and Company that in accordance with instructions of the Mexican Department of Industry, Commerce and Labor the Tampico Agency has granted to the "Control de Administración del Petróleo Nacional" permit to drill Ochoa Well No. 2 upon the land of T. J. Fugitt, Ochoa Well No. 3 upon the land of R. E. L. Owen, and Ochoa Well No. 4 on the land of Mrs. E. C. Yates; that the same Department has authorized the granting of a drilling permit to the "Control de Administración del Petróleo Nacional" for Ochoa Well No. 1, being on the property of Lucius C. Warner; and that in respect of the last named property the Control is moving material, setting up boiler, building derrick, et cetera, upon the land in question.

You will readily appreciate that American owners of oil lands acquired by them in good faith prior to the adoption of the Constitution of 1917 are greatly disturbed by what seems to them to be a steadily advancing policy of confiscation. They point out that not only are they deprived of the beneficial use of their lands through nonissuance or cancellation of drilling permits, but that such lands are held out to the public as open to denouncement by unrelated third parties, that concessions are granted thereon to such parties, and that steps are taken by the new concessionaires to commence exploring and exploiting operations.

¹⁷ Not printed.

While the Department cannot, of course, ignore cases of actual confiscation of validly acquired American owned property, and while it cannot but be concerned at the steps which the Mexican authorities seem to be taking in that direction, it feels that it is far more important at this juncture to endeavor to reach some general agreement with the Mexican Government providing for satisfactory recognition of valid American property rights than to make repeated representations in respect of individual cases arising under the land, petroleum and other laws regulating the provisions of the Constitution. Such individual representations have been almost without exception fruitless in the past, and the irritation which could conceivably follow continued pressure of a similar nature might seriously jeopardize the success of your efforts to effect a general settlement.

In these circumstances the Department is not inclined to instruct you to present individual cases to the Foreign Office at this time. It will, however, bring at once to your attention all such cases as may be submitted to it so that in your discretion they may be used as illustrations to support your general thesis that valid American property rights should not be disturbed. In this connection it is suggested that you give careful attention to the possibility that the Mexican authorities might be prevailed upon to agree that pending the exploration of the general situation which you have entered into with them, no affirmative steps looking to the confiscation or positive impairment of American property rights would be taken. If, for example, you could obtain assurances that during this interval drilling permits could be issued under appropriate reservations to companies which have not applied for confirmatory concessions, a most favorable impression could not but be created in this country, but even if the Mexican authorities were unwilling to go so far it should not be impossible to convince them of the desirability, in the interest of a general settlement, of wholly refraining for the time being from issuing to unrelated third parties exploration and exploitation concessions on American owned lands. Assurances of such a nature would do much to relieve the situation of a present tension and source of embarrassment to the two Governments.

I am [etc.]

FRANK B. KELLOGG

812.6363/2425 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, November 17, 1927—6 p. m.

[Received 8:58 p. m.]

412. The Supreme Court rendered decision today which is reported to hold articles 14 and 15 of petroleum law unconstitutional. Will report fully when copy of decision is obtained.

MORROW

S17.00 H 35/2 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, November 20, 1927—1 p. m.

[Received November 21—12:52 a. m.]

418. Embassy's No. 413, November 18.^{17a} Yesterday morning I received word through the Acting Minister for Foreign Affairs, Señor Estrada, that President Calles would be pleased to have me call upon him at 11 a. m. at Chapultepec Castle. I kept the appointment . . .

The President then referred to the Supreme Court decision in the oil case mentioned in Embassy's 412, November 17, 1927, 6 p. m., and said that he was very much pleased that the decision had been made, and that it was the duty of the Executive and Legislative Departments to follow the Supreme Court's interpretation of the Constitution, and that they would do so without doubt. The President said further that although only one *amparo* case had been decided, he had no doubt that additional cases would be decided in accordance with the same principles, as soon as they could be prepared for decision. The President told me he was not a lawyer, that he had not yet received from his legal advisers an opinion as to the proper course for the Government of Mexico to follow; but from his understanding of the matter, it would now be proper for the Government of Mexico to alter the law or the regulations so that:

(1) Section 14 of the petroleum law, which provides for a grant of a 50-year concession instead of a perpetual right, would be altered or repealed;

(2) Full confirmation of rights to take out the oil, unlimited in time, would be given to those who had such rights prior to the Constitution of 1917;

(3) A sufficient time, probably one year, would be given to all such owners of the surface to come in and get their rights to the oil confirmed.

I did not discuss with the President the terms of possible new legislation because, as I explained to him, I had not had the opportunity to read an English translation of the decision. The President made it quite clear, however, that he wished all substantial rights of the oil companies to be observed by the Government of Mexico. The President went so far as to state that he knew many of the oil companies were greatly disturbed over the actual state of their titles to the surface, and feared that the Government of Mexico might commence a radical attack upon titles, but that their fears, in this respect, were groundless. The President stated that of course some preliminary

^{17a} Not printed.

arrangement would have to be made by which third parties who disputed titles should be given an opportunity to be heard, but that the Government of Mexico was desirous of confirming titles under which actual money had been spent rather than disturbing them on technical grounds.

Señor Martinez de Alva of the Division of Protocol of the Foreign Office acted as interpreter at our conference, and when riding back from the Castle with him I invited his attention to the fact that the present law was confused in sometimes using the word "confirmation" and sometimes using the word "concession"; that I understood President Calles to be in favor of "confirmation" of rights held prior to the Constitution. Señor Martinez de Alva replied that he was familiar with the law and that President Calles had used the term "confirmation" and had never referred to the term "concession".

MORROW

812.6363/2456

*Translation of Opinion in the Mexican Petroleum Company's Suit for "Amparo" as Announced by the Supreme Court of Justice of Mexico, November 17, 1927*¹³

Mexico, Federal District. Decision of the full Court, of November 17, 1927.

Having taken under review the case arising from the suit of *amparo* (the Spanish word *amparo* means literally shelter, hence protection; and the protection sought in a suit for *amparo* is similar to that sought in the United States in a suit for injunction) brought by the attorney-in-fact of the Mexican Petroleum Company of California against acts of the Department of Industry, Commerce and Labor and the agent of said Department in charge of the Technical Petroleum Agency in Tampico, State of Tamaulipas, and alleging violation of articles 4, 14, 16, 22 and 27 of the Federal Constitution; and upon an examination of the record the following being disclosed (*resultando*):

STATEMENT OF THE CASE

First: By a writing dated January 26 of the current year and presented on the following day, Carlos Palomar, as attorney-in-fact of the Mexican Petroleum Company of California, a capacity which he proved by means of an authenticated copy of his power of attorney

¹³ This translation was enclosed in a letter of Dec. 14, 1927, from Mr. Guy Stevens, director of the Association of Producers of Petroleum in Mexico, to the Under Secretary of State. A previous translation prepared by the Association in Mexico was transmitted with the Spanish text by the Ambassador in Mexico in despatch No. 115, Nov. 22, 1927; not printed (file No. 812.6363/2438).

In despatch No. 148, Dec. 5, 1927, the Chargé in Mexico informed the Department that the formal opinion was signed on Dec. 2, 1927 (file No. 812.6363/2448).

exhibited with his complaint, sought *amparo* against acts of the authorities before mentioned, which he said consisted of the issuance of official communications Nos. 1090, 1091 and 1093 dated January 11 of the same year, addressed by the Chief of the Technical Petroleum Agency in Tampico to the representative of the aforesaid Company, notifying him that, because of non-compliance with the requirement contained in the Regulatory Law of Art. 27 of the Constitution in the branch of petroleum (i. e. The Petroleum Law promulgated December 31, 1925), making it necessary to ask for confirmation of subsoil rights acquired prior to May 1, 1917, the said Agency, acting upon express instructions from the Department of Industry revokes the permits granted by official communications Nos. 82, of Jan. 3 of the current year, 11 of the same date, and 21, likewise of the same date, to drill wells: "Mendez No. 27", "Chijol No. 63" and "Dicha No. 104", respectively, in lands of the former Hacienda de Chapacao, Municipality of Panuco, State of Veracruz. These acts are considered as violative of the guarantees established in the Constitutional articles before mentioned, and, to support its complaint, the complainant company sets forth the following allegations:

That in the city of Mexico, in the month of January of last year (i. e. 1926) it sought *amparo* against the provisions of articles 2, 4, 14 and 15 of the Regulatory Law of Art. 27 of the Constitution in the branch of petroleum, in so far as those provisions deprived said company of the rights to explore and exploit the oil-bearing subsoil acquired prior to May 1, 1917; that the District Judge dismissed the complaint as not having a legal basis (*improcedente*), the Supreme Court having confirmed this decision; that the complainant company considered that the said provisions modified to its prejudice, in respect to its properties and rights, a legal status existing before May 1, 1917, the date on which Art. 27 of the Constitution became effective; that the Supreme Court took the contrary view declaring that the law did not at that time deprive (the complainant) of its rights and possessions, adding that articles 14 and 15 of the Regulatory Law, in designating in connection with Art. 12 the period of one year within which it would be possible, if possible at all, to ask for confirmation of the rights, showed conclusively that the legal provisions cited were not immediately obligatory in character, stating in conclusion that, as yet, no specific act of enforcement could be pointed out; that such a specific act having now taken place, the (present) suit of *amparo* was being brought on the following grounds:

Prior to May 1, 1917, the complainant, a foreign company organized under the laws of the State of California, U. S. A., domiciled in the Republic of Mexico and qualified to do business therein by

reason of having complied with the legal requirements, acquired in the State of Veracruz various lots of land that form part of the former Hacienda de "Tampalache, Chila y sus Llanos", known also by the name of Chapacao, acquisitions which it has been exploiting for petroleum, and which date back for more than 25 years, as do also the operations undertaken; that the Department of Industry recognized in the fullest manner its rights by official communications of September 2, 1926 and October 16 of the same year; that said recognitions were granted after examination of the title documents proving its rights, of which (title documents) photostatic copies are attached (hereto),¹⁹ and the right reserved to present the originals if it should be necessary; that the fundamental object of the Company is the exploitation of petroleum, wherefore, in acquiring the various tracts, it did so with the definite purpose of extracting and utilizing the petroleum, a purpose which is corroborated by positive acts of exploitation which it has been performing for twenty-five years; that the official communications by which the drilling permits are cancelled, attack its rights in violation of the individual guarantees invoked,

because article 2 of the Petroleum Law declares in absolute terms that only with the express authorization of the Federal Executive, granted in accordance with the provisions of the law and its regulations,²⁰ may the operations required in the petroleum industry be conducted;

because Art. 4 declares that only Mexicans, companies organized in conformity with Mexican laws and alien individuals (the latter under specified conditions) may obtain petroleum concessions, thus excluding foreign companies such as the complainant;

because Art. 14 provides that there shall be confirmed by means of concessions granted in conformity with said law, the rights derived from lands upon which exploitation operations had been begun prior to May 1, 1917, to the exclusion of any other (lands), subject to the understanding that the life of such confirmations may not exceed fifty years computed from the time the exploitation operations were begun;

because Art. 15, according to which the period of one year is granted for applying for concessions of confirmation, fixes the penalty that, if this is not done, the respective rights shall be considered as renounced, and shall have no effect whatever against the Federal Government.

In the points of law set forth in the complaint it is said specifically that, as regards the lands which complainant acquired in fee (*en pleno dominio*) prior to May 1, 1917, its rights over the subsoil

¹⁹ Not attached to translation.

²⁰ For text of petroleum law, see *Diario Oficial*, Dec. 31, 1925. For text of the regulations, see *ibid.*, Apr. 8, 1926.

are merged (*se confunden*) with those over the surface which, according to general law (*derecho común*) such as existed prior to the date named, formed a whole with the underlying strata, without other limitations than those established by the Mining Laws, in accordance with the provisions of Art. 731 of the Civil Code,—the discussion as to whether coal, petroleum and other mineral fuels did or did not belong to the owner of the land having been definitely settled by the Mining Code of 1884, which declared in article 10 that those substances were of the exclusive ownership of the owner of the soil, which was also declared by the Mining Law of November 25, 1909, and the acquisition made by the Mexican Petroleum Company having been under the protection of those laws, the company's rights to the subsoil, as regards the tracts obtained prior to the effective date of the Constitution, are of indefinite duration as is the right of ownership itself. Wherefore, since the Petroleum Law does not accord recognition to those rights in articles 2, 4, 14 and 15, the individual guarantees before mentioned are violated to its (i. e. the complainant's) prejudice,

because its rights to exploit the subsoil cannot be derived from a future concession or from a permit or authorization which the Executive may grant to it, but are born from the titles themselves;

because it is excluded, as a foreign company, from the right of exploiting the subsoil, since it cannot obtain a concession, nor have its rights confirmed;

because, even supposing that a concession could be granted to it, that (concession) could refer only and exclusively to lands on which exploitation operations were begun prior to May 1, 1917, thereby excluding those lands on which it had performed no operations;

because the right to exploit the subsoil is limited as to time, without taking into consideration the fact that, with respect to tracts held in fee (*poseídos a título de dominio*), that right is of unlimited (*indefinido*) duration;

and, finally, because it is established as a condition for obtaining concessions that these be applied for within the period of one year, under penalty of loss of all rights now existing, or what amounts to the same thing, that the titles of acquisition be cancelled, every right definitely lost, and the interests of the company confiscated.

The violations specified in the complaint are seven in number:

I. That of Art. 4 of the Constitution, in that Art. 15 of the Petroleum Law deprives the complainant company of the accumulation of capital bound up with the subsoil which the said article confiscates, taking from the Company mentioned the products of its labor and the fruit of its efforts,

II. That of Art. 14 of the Constitution, in that Art. 27 of the Constitution is applied retroactively since the Petroleum Law fails to

recognize the significance, as established in unequivocal terms by the Supreme Court in five decisions (i. e. The Texas Company and other *amparo* cases decided in 1921 and 1922),²¹ of that provision (i. e. Article 27), as it relates to the particular case which gives rise to the *amparo*;

III. Art. 14, also, in that the official communications of revocation deprive the Mexican Petroleum Company of its properties, possessions and rights, without due process of law (*sin que haya mediado juicio*), and without compliance with the other requirements set forth in Par. 2 of the said article, since by applying to it Art. 15 of the Petroleum Law, the right which the Company holds over the subsoil of its lands is disregarded, (thus) despoiling it of the right to exploit them, acquired by virtue of former laws;

IV. That of Art. 16 of the Constitution, in that, without legal justification, the responsible authorities are disturbing the complainant company in its possessions, obstructing it in the exercise of its rights and depriving it of them;

V. That of Art. 22 of the Constitution, in that Art. 15 (of the Law) punishes with the penalty of confiscation any one who, as in the case of the complainant, may not have consented to receive new titles in exchange for its old titles to the subsoil, for on the supposition that the exchange of titles could have been made, as it cannot in this case since the Company is a foreign one, the confiscation is absolute and inevitable;

VI. That of Art. 27 of the Constitution, in that retroactive effects are given to Articles 14 and 15 of the Petroleum Law, whereas neither in letter nor in spirit, according to the declaration of the Supreme Court (i. e. in The Texas Company case), does Art. 27 of the Constitution have that attribute, as regards rights to the oil-bearing subsoil acquired prior to May 1, 1917; and

VII. That of Art. 27, in the sense that no one may be despoiled of his properties, save by expropriation for reasons of public utility and by means of compensation.

Second. The complaint having been admitted by the District Judge of Villa Cuauhtemoc before whom it was presented, the Department of Industry, Commerce and Labor set up:

that the drilling permits granted were expressly and distinctly provisional in nature, that is to say, precarious, subject to the provisions of the Petroleum Law, so that they did not imply any recognition of subsoil rights, and still less did they themselves confer such recognition, wherefore, if the company did not comply with the fundamental condition upon which the subsistence of those permits depended, that is to say, if it did not comply with the provisions of Articles 14 and 15 of the said Petroleum Law, renouncing voluntarily the rights which it may have held in the subsoil, it cannot now claim that its rights were violated by the ordering of the cancellation of the permits;

that as regards the application of certain articles of the said Petroleum Law, it should be pointed out that a law is being dealt

²¹ See *Foreign Relations*, 1921, vol. II, pp. 461 ff.; *ibid.*, 1922, vol. II, p. 680; and *Estados Unidos Mexicanos, Semanario Judicial de la Federación* (México, Antigua Imprenta de Murguía, 1922), quinta época, tomo X, p. 1308.

with which in general terms considers that the bona fide rights, the confirmation of which was not applied for within the specified period, are renounced, but so long as it is not proved that such rights exist and that the Petroleum Law results in harm or injury to them, there is no ground for the *amparo*;

that the jurisprudence invoked does not declare that the persons under consideration have rights which were legally acquired and must be respected, but establishes only that their rights be respected if and when they are proved;

and that, as a matter of fact, the ruling by the President of the Republic which ordered that such companies as had not applied for confirmation of the rights which they claimed to hold, should be brought to the attention of the Attorney General of the Nation in order that he might bring action to vindicate (*revindicar*) the subsoil rights of the Nation, gives the Companies an opportunity to prove their rights and that the Petroleum Law undertakes to despoil them thereof; and it will be against such final judgment as may be rendered in that case that *amparo* may be brought for the violation of such constitutional guarantees as may be violated and particularly that contained in Article 14, but in the present *amparo* proceeding it is impossible to prove that acquired rights are legally involved, and therefore it is not possible to decide that those rights are being taken away.

The Petroleum Agency in Tampico failed to submit its brief; and the hearing having been held at which the complainant company put in evidence various certified copies of the documents by virtue of which it claims to have acquired its rights, and testimony to show that it had performed petroleum exploration and exploitation operations prior to May 1, 1917, the District Judge, in disagreement with the view of the District Attorney, granted the *amparo*, on the ground that the Mexican Petroleum Company has been deprived of its rights to explore and exploit the subsoil of Chapacao, without any court proceedings having intervened as required by law, and in violation of Articles 14 and 16 of the Constitution, since nationalization of petroleum, according to Art. 27 of the Federal Constitution, should be carried into effect against private individuals through the Judicial Tribunals.

Third. The Department of Industry, its Agency in Tampico, the District Attorney and the complainant company appealed. The first two alleged the same errors (*agravios*), saying:

that there is a contradiction between that part of the decision in which the court announces its judgment and that part which contains the reasoning on which the judgment is based, since (the Court) grants the *amparo*, and at the same time declares that neither Art. 27 of the Constitution nor the provisions of the Petroleum Law violate any individual guarantees because it is not the authorities that apply said laws retroactively, but the legislator;

that the said decision is contrary to the letter and spirit of Art. 27 already mentioned, and the Petroleum Law, inasmuch as the complainant can only be the owner of petroleum which it may cause to flow or which may flow naturally (into its possession), but not of that which in a merely potential sense it may be able to obtain, for this latter has not as yet been acquired;

that the decision overlooks the relevancy of Art. 15 of the Petroleum Law, which in express terms provides that all rights, the confirmation of which may not have been applied for, shall be considered as renounced;

that Point Six in the opinion is based upon an erroneous interpretation of Art. 27 of the Constitution, inasmuch as the cancellation of the permits does not imply the doing of any affirmative act on the part of the Department, but purely and simply a compliance with Art. 15 already mentioned; and

that the Judge ignored the clause which specifically states that the permits are of a provisional nature and subject to the Petroleum Law.

The District Attorney says:

that there is a contradiction between the third and sixth points in the opinion;

that the judgment is in conflict with others rendered by the same Court in similar cases;

that the right to drill has not become part of the estate of the complainant company in such a way as to make its withdrawal dependent upon any legal proceedings, for rights that impose obligations (*perentorios*) and are conditional, granted as an act of favor (*a título de gracia*), for the utilization of natural resources, are of no effect whatever when there has been a failure to comply with the conditions set out in the title under which the favor was obtained; and

that while a real and perpetual right over the subsoil is assumed as if such a right had been proved, that is something which has not been proved.

The complainant company agreed with the judgment, and appealed only in order that the Supreme Court might confirm the granting of the *amparo*, taking the ground,—

that it is prohibited from exploiting the oil deposits, in violation of Art. 4 of the Constitution;

that it is not true that Par. IV of Art. 27 of the Constitution is retroactive, either in letter or in spirit, because the Supreme Court has established jurisprudence (to the contrary);

neither is it true, as the decision asserts, that the cancellation of the permits is not a penalty or a confiscation;

that the violation of Art. 27 of the Constitution as it relates to expropriation was not taken into account, since it is held that deprivation of rights could be made legally, by resorting to the judicial authorities and following the procedure set out in Art. 27; and

that the proofs submitted to show the right of ownership, and the use of that right, were disregarded.

Fourth: The records came to this Supreme Court of Justice, and the appeal having been admitted, they were brought to the attention of the parties and the file was sent to the Attorney General for him to formulate his brief, which he did, to the effect that the judgment under review be reversed, and the *amparo* denied, taking the ground that as the permits granted were of a provisional nature and subject to the provisions of the Law Regulatory of Art. 27 of the Constitution in the branch of petroleum, those permits could be revoked if the Company failed to (submit to) the provisions of the law; and since it failed voluntarily to apply for confirmation of the rights it claims to hold, the revocation was in accordance with law, no judicial proceeding being necessary, because said formality is unnecessary in revoking administrative permits.

THE OPINION OF THE COURT

The opinion of the Court is as follows (*considerando*):

First:—The errors alleged by those designated as the responsible authorities, are so closely related to those set up by the District Attorney, that the study of the former includes the latter, so that there is no need of making special mention of either. Therefore, with the exception of the error relating to the existence of the rights which the complainant company claims to hold not having been proved, an error which was alleged by the District Attorney and will be dealt with in a later part of this opinion, the other errors, as has been said before, will all be analyzed together.

Second:—It is objected that the part of the decision containing the judgment of the Court is inconsistent with some of its reasoning, because notwithstanding it is maintained in the Court's reasoning that it was the legislator and not the responsible authorities who gave retroactive effects to the law, wherefore, in applying it (i. e. the law), there is no violation of guarantees in this respect, nevertheless an *amparo* is granted. The error does not exist; for even admitting the correctness of this premise, it would not in itself be a sufficient cause for reversing the judgment, unless the reasoning directly governed the judgment part; and quite on the contrary, it appears from the decision that the reason for which the *amparo* was granted was not the retroactivity which the complainant com-

pany alleges to be a feature of the Petroleum Law, but the fact that the Judge took the point of view,—a point of view which the Supreme Court does not undertake to analyze,—that there had been deprivation of rights without due process of law as required by articles 14, 16 and 27 of the Constitution.

It is asserted also that the decision recognizes that the existence of a potential right, namely, the right of the company to exploit the subsoil, is violated. It is not true that there are involved here rights merely in expectancy; for in addition to the fact that the District Judge has referred only to the rights to explore and exploit which had been granted to the complainant, the said rights exist by virtue of the operations which the said (complainant) has conducted under the respective permits, under the protection of former general provisions (of law), and not merely potentially; and because of that fact (i. e. the actual conduct of operations), there is, to say the least, no simple expectancy involved here, and all the more since the said Petroleum Law, the application of which is under consideration, recognizes in an express manner (both the) possible and real existence of those rights by enumerating them in article 14, and does not withhold recognition of said rights for an alleged failure to exercise the same or utilize them. The Department of Industry, when it maintains the contrary in its corresponding error, goes so far as to put itself in conflict with the very Petroleum Law with the enforcement of which it is charged.

The contention made to the effect that the rights of the Company respecting which no confirmation was applied for, should be considered as legally renounced, in accordance with the provisions of article 15 of the Petroleum Law, is not tenable. In fact, the law allows a period of one year in which to present the application for confirmation of rights, and that period could not have run as against the complainant company, because if that confirmation cannot be granted for more than fifty years, as provided in the final paragraph of fraction 2 of article 14 of the Law, and if this limitation implies a partial restriction or partial loss of the rights which its titles, granted prior to May 1, 1917, may confer (upon the Company), it is evident that said application could not have been made by the complainant without curtailment of something which belongs to its estate, so long as such application would imply submission to the aforesaid limitation. And if it is indisputable that the confirmation of a right is the express recognition of the same, the restricting of it in the manner provided in said article 14 is to modify, and not to confirm, said right. Consequently, if the complainant company was not able to apply for the confirmation of its pre-existing rights, except with the limitation of them as to time, it is beyond doubt that it was imperative that this restriction should first disappear and,

by the same token, the period of one year specified in this connection by article 15, could not have elapsed, there existing the impossibility mentioned; and as the Department of Industry and Commerce, contrary to the concepts expressed above, revoked the permits which it had granted to the complainant company, on the ground that the said period had expired, without taking into consideration the unconstitutionality of the limit of fifty years, a condition attaching to the confirmation, it is indisputable that the protested ruling violates in this respect the guarantees afforded the complainant by articles 14, 16 and 27 of the Federal Constitution.

Finally, it is said that the Judge failed to consider the clause contained in the revoked permits, relative to the provisional nature of the same, and (stipulating) that they shall be subject to the provisions of the Petroleum Law. In this connection it is to be observed that the decision does deal with this question,—the statement of the error being therefore incorrect; but even though this alone would be sufficient for dismissing it (i. e. the point raised in this assignment of error), it is well to point out that the revoked permits, although they were of a provisional nature, were granted upon the fundamental consideration that the applicant company had rights which it could allege, and of the kind covered by Article 14 of the Petroleum Law, and as yet there has been no legal examination of those rights that makes it possible to assert that they do not exist as set forth in said Article 14. Moreover, compliance with the Petroleum Law, however free, spontaneous and open we may assume it to be, can refer only to those provisions which are constitutional; for, otherwise, it would be necessary to accept the absurdity that personal guarantees may be renounced, something which it is settled law cannot be done, constituting as they do a basic precept of our Constitutional Law.

Third:—The District Attorney asserts that the rights which the complainant company claims to hold were not proved, and that, as the decision of the District Judge goes upon the theory that they were, this constitutes an error. At the hearing the Mexican Petroleum Company exhibited various certified copies referring to the acquisition of different lots of land for petroleum exploitation purposes, and furthermore, produced testimony proving the regular operations carried out in said land, which is sufficient ground for holding it (the Company) injured for the purposes of *amparo*, since it is not in this proceeding involving constitutional questions that alleged property rights should be discussed, and still less those of the complainant company refused recognition out of hand, inasmuch as precisely such an examination of rights must (*deberá*) be made when the application for confirmation is presented to the Department of Industry and Com-

merce. Consequently, if the Company has not had the opportunity of having the rights relied upon examined, the error assigned by the District Attorney is not to be admitted.

Fourth:—The errors alleged by the responsible authorities and the District Attorney having been analyzed, it is necessary to enter upon a study of the violations claimed in the demand for *amparo*, with the exception of that relating to the limitation as to time contained in Article 14, which has already been dealt with in earlier parts of this opinion. The complainant company maintains that the provision which imposes the obligation of applying for confirmation, constitutes in itself a violation (of its constitutional rights), since such confirmation cannot be accorded except in the form of a new concession which the said Company believes it is not called upon to apply for, because it is in the enjoyment of the rights in question by virtue of its titles and the perfectly valid authorization issued before the Petroleum Law (went into effect). Legally, this error cannot be upheld, because the Department of Industry, Commerce and Labor violates no guarantee whatsoever in requiring that confirmation of the rights be applied for, since Article 14 of the Petroleum Law refers only to the recognition of acquired rights without any substantial alteration; so that, the requirement of confirmation is only a formality (*modalidad*) imposed by the Legislator upon the use and exercise of the said rights for reasons of a public nature, and for the very purpose of safeguarding them. If such rights were confirmed by operation of the law and no report (*manifestación*) had to be made, it would be extremely difficult and impossible in many cases to determine whether the specified rights continued to exist in their original form (*estado*) or had changed for any reason.

There are procedures similar to this in our legislation, and off hand we might mention the provisions of the Law relating to Waters of Federal Jurisdiction, requiring confirmation of rights for the use and utilization of said waters which until then had been under local jurisdiction and by the new law came under federal jurisdiction; but providing that such confirmation should be made under the procedure established therein, which required the water user to apply to the Department of Fomento, in order to obtain confirmation of his rights, as a means employed by the Legislator to secure knowledge regarding the utilization of public waters, the existing number of water users, and their location and boundaries, and thus be in a position to exercise the supervision and (perform) the other duties which the laws impose upon the authorities, to do which they would not be qualified if uninformed of the facts before mentioned; and similarly the Department of Industry, Commerce and Labor must have some means of getting before it the various holders of titles to petroleum

lands and be able to know the condition and the extent of their rights, confirming them without any cost in accordance with the provisions of Paragraph I of Article 14, by means of an act of recognition (*mediante un reconocimiento*), which is nothing but the use of a formula for expressing (*expresión formulista*) the confirmation of rights already acquired to which the very Petroleum Law refers. Consequently, the rights of the complainant company are not at all affected by a confirmation which does not modify them, but which recognizes them, provided that the requirements laid down by fractions 1 and 2 of Article 14 of the said Law, and the obligations set out in its (the Company's) respective titles, are complied with.

Fifth:—To go further, there is no doubt in anybody's mind that petroleum and its derivatives constitute one of the resources most coveted and sought after by industry and commerce, and that the zones in which they are produced are of limited and small area. Within an area which is often small there are mingled and developed many and varied industries; surface and underground transportation, industries of extracting and treating petroleum, and operations of exploration and exploitation. All these activities, instead of developing harmoniously, frequently come in contact, clash and enter into conflict, leading to interference and encroachments, which it is the unavoidable duty of the Public Power to prevent and regulate; and it is not humanly or reasonably possible to regulate this activity without having an exact knowledge of it, without knowing and harmonizing the conflicting interests, and the plan and conditions of their development; and the initial and primary road to this understanding is confirmatory registration which neither injures nor modifies substantially the rights, but tends merely to authenticate and make certain of them, thus enabling the Public Power to coordinate them in a wise and peaceable manner. The large concentration of human beings within the restricted area of centers of population has produced the common phenomenon observable in all large cities, of the land being utilized to the last millimeter for the erection of large buildings, formidable structures in which are sheltered hundreds and thousands of people, and notwithstanding the undeniable rights of the owner of the building to utilize his property and the rights of the tenants to enjoy the inviolability of their homes without being molested, the public authority establishes supervision within them,—police, sanitary and of other kinds, without that being considered by anybody as a transgression or a violation of the home or property; and in an analogous situation, the Legislator undoubtedly had a similar object in view regarding the petroleum zones, in which the crowding of persons, of activities, or interests openly or latently in conflict, makes it his duty to take opportune measures of social fore-

sight looking toward better living conditions, aside from the fact that the essential purpose of issuing confirmatory concessions is to give to the State (the power of) regulation and supervision (*intervención*) which Article 27 of the Constitution recognizes in it.

JUDGMENT OF THE COURT

By reason of what has been stated, and upon the basis of Articles 103, fraction 1, and 107, fraction 9, of the Federal Constitution and Article 86 and other pertinent ones of the Regulatory Law of *Amparo*, it is resolved:

First:—The judgment pronounced by the District Judge in the *amparo* proceedings to which this record refers, is confirmed in the following terms:

Second:—The Justice of the Union protects and defends the Mexican Petroleum Company of California against the acts of which it complains and which consist in the revocation of the permits granted by the Department of Industry, Commerce and Labor to drill wells: "Mendez No. 27", "Chikol No. 63" and "Dicha No. 104", in lands of the former Hacienda de Chapacao, Municipality of Panuco, State of Veracruz, basing such revocation on Articles 14 and 15 of the Petroleum Law, the organic law of Article 27 of the Federal Constitution, and imposing the penalty established by said Article 15. 4

Third:—Let notice be given

ADDRESS OF PRESIDENT COOLIDGE BEFORE UNITED PRESS ASSOCIATION, APRIL 25, 1927, AND COMMENTS OF PRESIDENT CALLES THEREON

*Address Delivered by President Coolidge at the Dinner of the United Press Association at New York, April 25, 1927*²²

MEMBERS AND GUESTS OF THE UNITED PRESS:

The gathering and the distribution of news have long since ceased to be a local and individual occupation. They have become identified with great organizations having their representatives in all parts of the country and their publications in every important center. This service could only be performed by a mutual exchange of the most inclusive nature. How rapid and complete has been the growth of these organizations is exemplified by the United Press, which is now celebrating its twentieth anniversary. In that short space of time it has spread far and wide over North and South America and become an instrument of both national and international publicity.

²² Reprinted from pamphlet printed by the Government Printing Office at Washington, 1927.

This growth and power of the press carries with it great obligations. It is axiomatic that a free press can exist only in a free country. One of the first efforts of all kinds of absolutism is to control the press and the schools as the sources of information and education of the people. Where the press is free, as it is in our country under the guaranties of the National and State Constitutions, it has a reciprocal duty of its own to perform toward the administration of the Government, of giving true reports to the people of the actions of public officials. To do otherwise would be to establish a petty tyranny of its own. In America the general sources of information are so numerous and on the whole so correct that any publication which constantly misrepresents very soon becomes marked as unreliable and loses its influence both for good and for harm.

It is natural that the press should represent the character of the government under which it lives and of the people which it serves. I have come to have a profound regard for the American press because it represents America. In the accuracy of its reports, the intelligence of its comments, and the freedom of its actions, I know of no other country where it is surpassed. There ought to be a deeper realization of these conditions on the part of those who are responsible for the conduct of our press which should be reflected on their part in a more intense and genuine Americanism. If you lived under some jurisdictions your news would be garbled and unfair, your editorial comments would be dwarfed and prejudiced, your conduct would be cramped and limited. Because America is what it is, you are what you are. Your own independent and exalted position fully demonstrates that this country is worthy at all times of your service and your support. Whenever any section of our press turns on America and on American institutions, and assumes a foreign attitude, every informed person knows that it has fallen from the high estate which is our common heritage, and becoming no longer worthy of regard is destined to defeat and failure. No American can profit by selling his own country for foreign favor.

The policy that our Nation is trying to promote throughout the world is one of peace and good will based on a better understanding through justice and fair dealing. It is perfectly apparent that there are three main elements on which we rely to advance this cause. First is the National Government as it comes into contact through its duly constituted officers with the governments and people of other countries. I doubt if the belief exists in any informed quarter that this is a belligerent Government desirous of oppression or bent on conquest. Our whole history and tradition, the moderation of our Military Establishment and the general attitude of our people, would altogether disprove any such assumption.

Another very important consideration is that of trade and commercial relations. While a certain number of foreign people come to this country to transact business without intending to make this their permanent home, their number is negligible and any difficulty arising from their presence here is almost unknown. They have practically every advantage and every protection that is afforded to our own citizens. Of their conduct on the whole we have had little to blame and much to praise. In the past foreign interests have had investments in this country running into several billions of dollars. Being made at a time when we had insufficient capital to develop our own resources, such investments were most helpful in building our railroads, opening our mines, and supporting our manufacturing. As we have come into the possession of surplus capital we have shown an increasing disposition to extend this same kind of service to other countries. Our people have gone abroad with their investments, their technical skill and commercial ability, to assist in opening up undeveloped countries.

This is the natural play of the forces of civilization. It is the result of natural and commendable enterprise which carries with it the same kind of benefits and advantages to the other people which we ourselves formerly received from abroad. It is the method by which the more prosperous and improved portions of the earth help to bring these advantages to the less fortunately circumstanced. This policy is distinctly one that is in harmony with the law of service. In principle it is the method by which stronger communities minister to weaker communities. But these operations must be carried on with justice and humanity. They must not be permitted to sink to the level of mere exploitation. They do not justify a seizure, which is virtually by force, of the natural resources of foreign countries or the failure to give fair compensation for their labor. A just attitude in these respects by Americans when they engage in enterprises abroad will do very much to determine whether our country is able to maintain the respect and friendship of foreign peoples. Unless this course is pursued, unless this attitude is maintained, all the support which our Government could give would fail to make these foreign enterprises successful. Unless they rest on justice and fair dealing they are bound to fail.

A third factor exists which is in the long run more important than any other. A condition of understanding and good will among the people of the earth is very largely a state of the public mind. It is almost inconceivable that nations which have maintained friendly relations should all at once find themselves at war with each other. Armed conflict arises from a long series of misunderstandings and abuses which suddenly flare up on some unexpected provocation.

Open hostility does not break out unannounced. It is a growth of long and assiduous cultivation. It can not be doubted that people as a whole desire peace. They can not long secure it if they are constantly harboring feelings of hostility. It is for these reasons that the public press, especially the daily newspapers and weekly periodicals, has such an enormous influence in creating a situation that brings the blessings of peace or is fraught with the perils of war.

There are two attitudes that the press may take which distinctly endanger our friendly relations. If they do not bring us to the verge of conflict, they are injurious to our trade. One is the constant criticism and misrepresentation of foreign people. Human nature provides sufficient distrust of all that is alien, so that there is no need of any artificial supply. The world is in far more danger from nations not trusting each other enough than from their trusting each other too much. A press which is given over to a narrow and bigoted nationalism, accompanied by misrepresentations of other countries, not only misinforms and misleads the people at home but produces the reaction of a ranking bitterness abroad. An almost equally harmful attitude is the other extreme. It usually consists of malicious and misleading partisan attacks on the conduct of our own Government in its efforts to defend American rights when they are threatened or invaded in foreign countries. Our Government has usually been too remiss, rather than too active, in supporting the lawful rights of its citizens abroad. That has been so long our established policy that it is rather difficult to conceive it assuming a truculent and arrogant attitude. But when it is proceeding with moderation, attempting by peaceful negotiation to adjust differences, defending the rights of its citizens, and maintaining national dignity, great care is necessary to give the public the exact facts and avoid the appearance of seeming to support the position of foreign governments. When such an attitude becomes known in the offending country, it is widely quoted there and, when all other arguments have been answered, becomes their chief reliance for maintaining their position. It not only furnishes ammunition for our adversaries, but attacks our own forces in the rear. An American press which has all the privileges which it enjoys under our institutions, and which derives its support from the progress and well-being of our people, ought to be first of all thoroughly American.

Progress and civilization have always depended upon effort and sacrifice. We have set up our institutions, established our ideals, and adopted our social standards. We believe that they are consistent with right and truth and justice. We live under a system that guarantees the sanctity of life and liberty through public order and protects the rights of private property under the principle of

due process of law. We have thrown every possible safeguard around the individual in order to protect him from any invasion of his rights even by the Government itself. It is peculiarly an American doctrine, now usually accepted in principle if not adopted in practice by all civilized countries, that these are inalienable rights, that they ought to belong to all persons everywhere, and that it is the chief function of government to provide instrumentalities by which these rights can be secured and protected. We have adopted these ideals because we believe that they are of universal application and square with the eternal principles of right. But we may as well realize that they will not continue to prevail unless we are prepared constantly to put forth great efforts and make large sacrifices for their support.

While we have not been willing to assume any general attitude of crusading toward other nations, and realizing that institutions can not be bestowed but must be adopted have left them for the most part secure in their right to work out their own destiny, yet we have always been willing to encourage and assist, in so far as we could in harmony with international law and custom, other people in securing for themselves the benefit of these principles and ideals. In that conflict between freedom and despotism, which is as old as humanity, and which constantly recurs in one form or another, both among ourselves and among other people, it has always been the policy of this Government to extend its sympathy and, in so far as it lawfully could, its support to the side of freedom.

These are some of the standards which it has been the policy of our Government to support among its people at home and in its dealings with other nations. While it is well-established international law that we have no right to interfere in the purely domestic affairs of other nations in their dealings with their own citizens, it is equally well established that our Government has certain rights over and certain duties toward our own citizens and their property, wherever they may be located. The person and property of a citizen are a part of the general domain of the Nation, even when abroad. On the other hand, there is a distinct and binding obligation on the part of self-respecting governments to afford protection to the persons and property of their citizens, wherever they may be. This is both because it has an interest in them and because it has an obligation toward them. It would seem to be perfectly obvious that if it is wrong to murder and pillage within the confines of the United States, it is equally wrong outside our borders. The fundamental laws of justice are universal in their application. These rights go with the citizen. Wherever he goes these duties of our Government must follow him.

It is all right to say that when our citizens enter a foreign country they should do so with the understanding that they are to abide by the laws of that country. They should, and they do, and our Government would be the last to interfere in the just application of the law of his domicile to our citizens. But this is only a partial statement of the case. The admission of our citizens within their territory is a voluntary act of foreign governments. It is a tacit invitation. When we permit foreigners to come here, and when other countries admit our citizens, we know and they know that such aliens come and go not only under the rights and duties imposed by domestic law, but also under the rights and duties imposed by international law. There is nothing unfair, nothing imperialistic, in this principle. It has been universally adopted and recognized as right and just and is the only reasonable method by which enlightened humanity can safeguard friendly intercourse among the citizens of different nations. This policy has been adopted in furtherance of the humanitarian desire for a universal reign of law.

These principles are involved in some of the difficulties that we have recently been trying to work out with foreign nations, especially with Mexico. We have had claims against that country running over a long series of years, growing out of the death of many of our citizens and the loss of their property, running into hundreds of millions of dollars. A very considerable portion of these cases has been due to revolutionary activities and other forms of public violence. Public order has never been entirely complete in that country. But lately our difficulties have been increased by the enactment of laws by the Government itself, which we feel threaten the virtual confiscation of the property of our citizens, even where their holdings are under titles which have been established for scores of years.

In 1857 Mexico adopted a constitution.²⁸ In its relation to the protection of acquired property it provided ample security. Under its terms many of our people acquired holdings both through individual and corporate ownership. During the more than 30 years of President Diaz we were especially encouraged to make investments, to promote all kinds of development of the natural resources, transportation, and industries. After he was driven from office by revolution much disorder existed, with Presidents following one another in rapid succession.

In 1917 a new constitution was adopted²⁸ with provisions affecting agricultural, mining, and oil lands, which we thought threatened the holdings of our nationals with confiscation. Their constitution is not self-enforcing, but requires the promulgation of laws to put it

²⁸ See *The Mexican Constitution of 1917 compared with the Constitution of 1857*.

into effect. While this was in process of being brought about a government was established which we did not recognize. In 1920 General Obregon was chosen President and sought recognition. In negotiations for that purpose it was repeatedly pointed out that we feared that the new constitution, although one of its provisions expressly prohibited the enactment of retroactive laws, might be interpreted as retroactive in its effect upon the holdings of real estate which our people had secured prior to its adoption. We sought assurances from the Mexican Government that such was not the case. In order to prevent misunderstanding we sent two commissioners to Mexico City in 1923 to confer upon this subject, and also on the question of our claims, with two Mexican commissioners. Charles Beecher Warren and John Barton Payne represented our Government. They had a series of conferences and kept written records of their proceedings, in which are set out the recommendation for the appointment of two claims commissions and the understanding that the constitution of 1917 was not to be given retroactive or confiscatory application. These records were duly signed and attested by the commissioners and were submitted to the President of Mexico and the President of the United States for their mutual approval, which was given.²⁴ It was solely because of our understanding secured in this formal way that our property rights would be respected, that recognition of the government of President Obregon was granted on September 3, 1923.²⁵

During the winter of 1924 revolutionary activities started in Mexico which it seems probable would have succeeded in displacing President Obregon had not our Government furnished him with arms and ammunition largely on credit and given him the advantage of our moral support.²⁶ Our help maintained his position. Soon after President Calles came into power he and the Mexican Congress proposed laws and regulations which we deemed threatened confiscation of American property. To prevent the appearance of acquiescence we so notified Mexico prior to the passage of such laws.²⁷ Nevertheless they were passed. We have made further protest against their being put into effect, as they are contrary to our understanding of the conference as a result of which we granted recognition. In the notes which have been received the government of President Calles refuses to be bound by what we thought was the understanding arrived at with President Obregon. We closed the correspondence by notifying the Mexican Government that we stood squarely on the understanding made with President Obregon and we expected it not to take any action that

²⁴ See *Proceedings of the United States-Mexican Commission, convened in Mexico City, May 14, 1923.*

²⁵ See *Foreign Relations*, 1923, vol. II, pp. 522 ff.

²⁶ See *ibid.*, pp. 567 ff.

²⁷ See *ibid.*, 1925, vol. II, pp. 521 ff.

would deprive American citizens of their property or their property rights.²⁸

Agricultural lands have apparently been seized from time to time for which no compensation has yet been made. While there have been threats to seize oil property, no such seizures have lately been made, and suits are now pending in Mexican courts to restrain such seizures. Former decisions of their courts are relied on to support these suits.

Stripped of all technicalities and involved legal discussion, this is the main difference which our Government has with the Mexican Government. We do not question their right to take any property, provided they pay fair compensation. With their efforts to secure a division of great estates, so that more of their people may be land-owners, we have every sympathy. We have even agreed that our Government would accept the bonds of the Mexican Government in payment for damages awarded by the commission for land taken for this purpose.²⁹ Of course, we do not want any controversy with Mexico. We feel every sympathy with her people in their distress and have every desire to assist them. That they welcome conditions under which life and property are secure is shown by the hundreds of thousands of them who are coming to the United States, where, through their industry, they thrive and prosper. Under these conditions small land holdings would develop in Mexico as they have developed here. Those of her citizens who preferred to seek employment in industry, like many of our own people, would have an abundant opportunity in their own country. Instead of desiring to pursue any aggression or to take part in any oppression, we are endeavoring through the most friendly offices to demonstrate to their Government that their attitude in relation to property will not only result in the economic disadvantage of their own people, by preventing the investment of outside capital so necessary for their development, but will greatly impair their friendly relations with other interested nations.

It is a cardinal principle of law that private property should not be taken without fair compensation. This principle is declared in our National Constitution and in those of all our States. I know of no written constitution that does not contain a similar provision. Under the constitution of 1917, and by-laws and regulations for carrying it into effect, we feel that Mexico is threatening to disregard this great elementary principle by undertaking a retroactive application of their constitution to property of our citizens acquired long before their constitution was adopted.

²⁸ See *Foreign Relations*, 1928, vol. II, pp. 605 ff.

²⁹ See *Proceedings of the United States-Mexican Commission convened in Mexico City, May 14, 1923*, p. 44.

The Senate recently passed a resolution supporting the protection of American life and property and suggesting resort to arbitration.³⁰ We have at present two commissions of arbitration with Mexico, and the principle of arbitration has always been strongly advocated by our Government. Everybody favors arbitration when the question at issue is arbitrable. Under the present circumstances I can see grave difficulties in formulating a question which the two Governments would agree to submit to such a tribunal. The principle that property is not to be confiscated and the duty of our Government to protect it are so well established that it is doubtful if they should be permitted to be questioned. Very likely Mexico would feel that the right to make a constitution and pass laws is a privilege of her sovereignty which she could not permit to be brought into question. It has therefore seemed that we are more likely to secure an adjustment through negotiation. I am glad to report that the Mexican Ambassador has recently declared to me that she does not intend to confiscate our property, that she has shown diligence in capturing and punishing those who have murdered our citizens, and expressed the wish, which we so thoroughly entertain, of keeping cordial and friendly relations. With a strong sentiment of this nature, which, I am convinced, animates the people of both countries, it will surely be possible to reach an amicable adjustment. Our two peoples ought so to conduct themselves that there will never be any interference with our ancient ties of friendship.

Our relationship to Nicaragua I have set out in detail in a message to the Congress.³¹ For a dozen years we kept a force of marines in that country at the earnest solicitation of its Government. During this time the people were peaceful, orderly, and prosperous, and their national debt was greatly reduced. Almost at once after I withdrew the marines revolution was started. Finally a President was designated by the Congress which appeared to us and to other Central American countries to have a constitutional title and we therefore recognized him.³² As the disorders continued, on his representation that he was unable to protect American lives and property, I sent a force of marines for that purpose.³³ Their presence has undoubtedly prevented the larger towns from being pillaged and confined the fighting for the most part to uninhabited areas. We have sold arms and ammunition, as we did in the case of Mexico,³⁴ to the Nicaraguan Government.³⁵ The revolutionary forces appear to

³⁰ *Post*, p. 225.

³¹ Message of Jan. 10, 1927, p. 288.

³² See *Foreign Relations*, 1926, vol. II, pp. 780 ff.

³³ See *post*, pp. 287 ff.

³⁴ See *Foreign Relations*, 1924, vol. II, pp. 428 ff.

³⁵ See *post*, pp. 435 ff.

have received arms and ammunition from some source in Mexico. With a hope that we might be furnished with information which would better enable us to deal with the situation, I have sent Henry L. Stimson, former Secretary of War, to that country.⁸⁶ Meantime, it is reported that the Government forces have been apparently successful in driving the revolutionists from the field.

In addition to the private property of our citizens, which is employed in lumber and agricultural operations, our Government has secured the right to construct a canal and establish a naval base, for which it paid \$3,000,000.⁸⁷ Contrary to the general impression, there are no oil properties in this country. Nevertheless, I have seen cartoons that pictured it as filled with oil derricks. Our country consumes vast quantities of oil and gasoline in its use of automobiles, gas engines, and oil-burning furnaces. If these products are to be kept within a reasonable price, which is very important to a great body of our citizens, our people who go abroad to develop new fields and to increase the supply ought to have the encouragement and support of our Government. We are not making war on Nicaragua any more than a policeman on the street is making war on passers-by. We are there to protect our citizens and their property from being destroyed by war and to lend every encouragement we can to the restoration of peace. While the destruction of life and property has been serious enough, had it not been for the presence of our forces it would undoubtedly have been much worse.

Toward the governments of countries which we have recognized this side of the Panama Canal we feel a moral responsibility that does not attach to other nations. We wish them to feel that our recognition is of real value to them and that they can count on such support as we can lawfully give when they are beset with difficulties. We have undertaken to discourage revolutions within that area and to encourage settlement of political differences by the peaceful method of elections. This policy is bound to meet with some discouragements, but it is our hope and belief that ultimately it will prevail. This territory is rich in natural resources and under orderly governments is capable of a development that will give to its inhabitants all the advantages of modern civilization. It is a curious circumstance that some of those who have been willing to have us take mandates over far-off countries in Asia, where we have no interest that does not attach to all humanity, are most critical when we are attempting to encourage the maintenance of order, the continuity of duly established government, and the protection of lives and prop-

⁸⁶ See Department's telegram No. 65, Apr. 7, to the Minister in Nicaragua, p. 319.

⁸⁷ See *Foreign Relations*, 1916, pp. 849 ff.

erty of our own citizens under a general reign of law in these countries that are near at hand and where we have large and peculiar interests.

Another important problem in our foreign intercourse relates to China. That country is undergoing a revolutionary convulsion. It is broken up into several separate parts, each claiming to represent a government, none of which we have recognized. Our main difficulty here is the protection of the life and property of our citizens. We have many missionaries there and some commercial establishments. We have nothing in the way of concessions. We have never occupied any territory. Our citizens are being concentrated in ports where we can protect them and remove them. It is solely for this purpose that our warships and marines are in that territory.

While this process was going on the unfortunate incident arose at Nanking.³⁸ One of our citizens was murdered, another was wounded, our Consulate was violated, and when the house in which our people had taken refuge was surrounded and they were actually under fire it became necessary for one of our ships, and one of the British ships in the harbor, to lay down a barrage, to drive away the soldiers and the mob who were making the attack and to enable our citizens to reach a place of safety on our ships in the river. We presented with the other powers who had suffered like attacks identic notes of protest, to which a reply has been made,³⁹ which although conciliatory in tone and to a certain degree responsive, leaves the final disposition of the issue a matter for further consideration by our Government.

Weeks ago we saw this situation developing and sent a suggestion to the contending factions that they exclude the foreign quarters of the city of Shanghai from the area of military operations. This they failed to do, making the dispatch of our forces necessary. In a public statement issued by our Secretary of State on the 27th of January ⁴⁰ we indicated that we were ready to negotiate a treaty giving China complete tariff autonomy and to negotiate the release of extraterritorial rights as soon as China is prepared to give protection to American citizens and their property. The friendship of America for China has become proverbial. We feel for her the deepest sympathy in these times of her distress. We have no disposition to do otherwise than to assist and encourage every legitimate aspiration for freedom, for unity, for the cultivation of a national spirit, and the realization of a republican form of government. In

³⁸ See vol. II, pp. 146 ff.

³⁹ Vol. II, pp. 189 and 192.

⁴⁰ See telegram No. 28, Jan. 25 to the Chargé in China, vol. II, p. 350.

the turmoil and strife of the present time we realize fully that forces may be let loose temporarily beyond their power to control, which may do injury to American nationals. It is to guard against that eventuality that our forces are in Chinese waters and to do what China itself would do if peace prevailed. We do not wish to pursue any course of aggression against the Chinese people. We are there to prevent aggression against our people by any of their disorderly elements. Ultimately the turmoil will quiet down and some form of authority will emerge, which will no doubt be prepared to make adequate settlement for any wrongs we have suffered. We shall of course maintain the dignity of our Government and insist upon proper respect being extended to our authority. But our actions will at all times be those of a friend solicitous for the well-being of the Chinese people.

The recent period has brought America into a new position in the world. We shall have to bear the inevitable criticisms and try to discharge the inevitable obligations which arise from this condition. Because some others have pursued that course, it may be feared that we shall embark upon a program of military aggrandizement. Such, however, is not the spirit of the American people. If, even where our national interests and the protection of the rights of our citizens are involved, we attempt to assist in composing difficulties and supporting international law, we must expect to be charged with imperialistic motives. In our international intercourse, we must hold ourselves up to high standards of justice and equity. We should be slow to take offense and quick to grant redress. The world knows that the whole genius of America always calls it to the support of the universal rights of humanity.

The civilization of the world has been accomplished by the acceptance and general observance of definite rules of human conduct. Our duty demands that it be clearly understood at home and abroad that we are unwavering in our faith in those principles. Those who violate them can not hope for our approbation. Our attitude toward all nations is one of friendship and good will. Toward those who are yet struggling to improve the conditions of their people and achieve a larger liberty, it is especially one of forbearance. We support the demands of right and justice, but we are equally solicitous to observe the requirements of mercy and compassion. In the attempt of your Government to meet these great obligations by which alone an enlightened civilized society can be maintained, a united America must constantly respond with service and sacrifice.

711.12/1056

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 4031

MEXICO, April 27, 1927.

[Received May 5.]

SIR: I have the honor to transmit herewith for the Department's information, and with reference to my telegram No. 178 of today's date,⁴¹ clippings from the newspaper *El Universal* of today's date, giving the written replies of President Calles to a questionnaire submitted to him by representatives of that newspaper and of the newspaper *Excelsior* on the subject of the speech of the President of the United States at the dinner of the United Press Association in New York on April 25th last.

I also enclose the English summary of President Calles' statement from the English page of the newspaper *Excelsior* of today's date,⁴² together with a full translation of the questionnaire and the replies thereto, made from the Spanish text of the questionnaire and answers as handed to the press, a copy of which has been supplied me by an American correspondent.

It will be observed that President Calles, as is natural, emphasizes the conciliatory tone of President Coolidge's remarks, and also interprets in a sense favorable to Mexican contentions the principal statements made by President Coolidge.

It need only be added that whatever formal expression of satisfaction with or approval of the statements of policy made by the President of the United States is advanced by President Calles, the latter's expressions have but little relation to the practical attitude of the Mexican authorities towards American interests in this country. These continue, as for a long time past, to be subjected to arbitrary and illegal action on the part of the Mexican Government, with no practical redress on the part of the American citizens and interests affected.

I have [etc.]

JAMES R. SHEFFIELD

[Enclosure—Translation ⁴³]

Questionnaire Submitted by Mexican Press Representatives to President Calles, April 26, 1927, and His Comments, With Regard to the Address Delivered by President Coolidge, April 25, at New York at the Dinner of the United Press Association ⁴³

QUESTION: What is your general impression regarding what President Coolidge said on the subject of Mexico at the banquet of the United Press Association?

⁴¹ Not printed.⁴² File translation revised.⁴³ As printed in *El Universal*, México, D. F., April 27, 1927.

ANSWER: Satisfactory. The attitude of President Coolidge reflected in his words at that banquet, as made known to me through the newspaper report of this morning, seems to me to be serene and cordial, and I consider its tone conciliatory. I believe, as President Coolidge does, that if there exists, as there does, a lively desire to maintain cordial relations, it will not only be possible, but surely easy, to reach a friendly agreement and, using the same words as were attributed to him by the press, I think that "our two peoples ought so to conduct themselves that there will never be any interference with our [ancient] ties of friendship."

QUESTION: President Coolidge spoke of the origins of the difficulties with Mexico, and especially "of the confiscations." Will you say something in this respect?

ANSWER: From the version of President Coolidge's speech which I know, he spoke of the claim running over a long series of years for damages to life and property of American citizens, matters which, due principally to revolutionary acts, have been and will continue to be settled by the General and Special Claims Commissions⁴⁴ now functioning and which had their origin in the "Bucareli conversations"⁴⁵ held during the Government of General Obregón.

In accordance with the same newspaper version of the speech referred to, President Coolidge gives as the origin of the intensification of the difficulties between Mexico and the United States the promulgation by the Mexican Government of laws which that administration considered practically threatened with confiscation the property of American citizens.

Fortunately for the good understanding and exact comprehension of our purposes and of the meaning of those laws, in the same speech President Coolidge shows himself informed and, we hope, convinced that Mexico never intended and does not intend to confiscate that property.

As I have taken care to express clearly at every opportunity, the revolutionary policy and its expression in laws has not had a confiscatory spirit or purpose.

There may have been, and there may continue to be, differences or interpretations of a philosophical or technical nature following a study of these laws, not so much with regard to the results of a practical order produced by the laws as in the theoretical conception which gave rise to them. That is to say: In accordance with standards established in different conceptions of the history of law, or of the present law, or because of an effort to reduce the legal standards to rigid and abstract principles, the new standards which Mexico through

⁴⁴ See *Foreign Relations*, 1923, vol. II, pp. 555 and 560.

⁴⁵ See *ibid.*, 1923, vol. II, pp. 522 ff.; also *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923*.

its constitutional organs has sought to apply as a basis for legal rights in matters of petroleum property, for example, may have been suspicious, although the application of those laws in fact has not resulted, nor do we intend that it should result, in a material injury of the principles invoked.

We think exactly like President Coolidge, using his own words as transmitted by cable, that "stripped of the [all] technicalities and involved legal discussion, this (the supposed threat of confiscation) is the main difference which our Government has" with that of the United States, and on this main difference I think I have been absolutely clear.

As regards expropriations effected on agricultural lands, the Mexican Government has never refused compensation, naturally to the extent of the means which the economic situation of the Government permitted, and it is very satisfactory to me to take note that President Coolidge recalled that the American Government agreed to accept the bonds issued by the Mexican Government for the payment of the damages which might be recognized by the respective commission in the cases where lands may have been expropriated in order to distribute them.

QUESTION: President Coolidge does not seem very much disposed toward a special arbitration of the existing difficulties. What do you think of this?

ANSWER: We now have two commissions of arbitration with the United States, and it is clear that in general the Mexican Government has always been and always will be an advocate of these means, though this does not signify our special desire that any particular difficulty be solved by this procedure, it being perfectly satisfactory to us that the arrangement take place through negotiations, which would have the immediate advantage that, as the drawing-up of a constitution and the promulgation of laws is a special privilege of sovereignty, that sovereignty would not suffer moral injury by subjecting to arbitration difficulties which originate in our constitution or our laws.

QUESTION: With regard to the governments of countries which have been recognized by the White House north of the Panama Canal, President Coolidge stated that the United States feel a moral responsibility and that he wishes that those countries (Mexico among them) would be persuaded "that they can count upon the lawful and all possible support on the part of the United States"⁴⁶ when they are beset with difficulties, adding: "We have proposed to hinder revolutions in those countries".⁴⁷ What do you think of this?

ANSWER: I think that the attitude of President Coolidge in expressing the purpose of not fomenting revolutions is in accord with strict

⁴⁶ The President's exact words were "that they can count on such support as we can lawfully give them when they are beset with difficulties."

⁴⁷ His exact words were "We have undertaken to discourage revolutions within that area."

moral rectitude. It would, indeed, be perfect immorality, and the manifestation of an absolute lack of governmental honesty, to incite revolutions or to stimulate them against recognized governments.

QUESTION: President Coolidge really condemned large Mexican land holdings in his speech and says that he looks with sympathy upon the efforts of Mexico to secure the division of the large estates in order that a greater number of inhabitants may become land owners. Do you think Mexico can take advantage of the suggestions for the settlement of this problem made by President Coolidge?

ANSWER: It is a true satisfaction for the Mexican revolution and a source of sincere appreciation by this Government to see the manifestation of sympathy of President Coolidge with our efforts to secure a division of the great estates for the benefit of the masses of people of Mexico. Naturally, we reserve the right to judge of the practical methods for the execution or realization of this desire to increase the number of small land owners in Mexico, methods which the revolution has not worked out at Cabinet meetings, but which are imposed upon us by the very special realities of our national life, so different from the conditions of the rural population in the United States, but the application of which, we repeat again, must be carried out with due respect to principles of international order, and with respect to the interests of our own people or of foreigners, solely to seek the collective welfare, and without denying the compensation established by our laws, a compensation offered in the best form permitted by the economic situation of the country.

QUESTION: What do you think, finally, Mr. President, of what President Coolidge states regarding the rights of Americans and the efforts of their Government to defend them when they are menaced or in danger in foreign countries?

ANSWER: The thesis of President Coolidge seems to me to be above reproach.

As a matter of fact, when citizens of one country go to a foreign country they must do so upon the understanding that they will submit to the laws of that country, though such submission does not imply that they have lost all the benefits established by international law.

That is to say, we think, indeed, that besides the concrete principles established by the laws of a country, there can be and there are rights derived from principles definitely and expressly consecrated by international law and that, from this point of view, the protection of the government of a country, whether strong or weak, for its citizens situated in another country, is just.

But I want to make some explanations with regard to these principles. It is true, and has a clear explanation in human nature, that

citizens or subjects of a strong country when they enter and obtain property in a weak country, resort to their governments because of real or supposed violations of rights before exhausting the remedies indicated by the laws of the country in which they live, and this unquestionably produces, when undue attention is paid to such demands by the foreign offices of strong countries with too much generosity or without sufficient study of each concrete case, it produces, I say, painful situations for the weak country as well as undue and intolerable disdain on the part of the nationals of strong countries which find the protection of the foreign office of their country more convenient and opportune than the legal remedies of the country in which they live, thereby contributing sooner or later to creating painful situations between peoples who might have a perfect community of feeling and purpose.

But these difficulties are not really anything but details without importance in the friendly life of peoples when in the governments, weak or strong, there is a consciousness of responsibility on the part of the rulers and the firm purpose of not injuring just rights of anyone.

And, now, referring to the concrete case of Mexico and of the United States, as this consciousness of responsibility and this purpose of governmental honesty exist among us, and as the spiritual and commercial approach of our peoples is becoming ever more frank, and since at the bottom of all the difficulties there is only lack of comprehension or differences of view in the appreciation of matters of a legal, theoretical or technical character, which do not really affect the facts and will not affect legitimate interests; and since they have not injured the feelings of the countries nor, fortunately, in recent times, brought any injury to our dignity, I am sure that the road is open for an easier and better understanding which may definitely assure the satisfactory settlement of all our difficulties.

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROPOSALS TO ARBITRATE DIFFERENCES ARISING FROM THE MEXICAN LAND AND PETROLEUM LAWS

*Senate Resolution 327 As Submitted by Senator Joseph T. Robinson,
January 18, 1927*⁴⁸

Resolved by the Senate of the United States, That while, by virtue of sovereignty, the duty devolves upon this Government to protect the lives and property of its nationals in foreign countries, which duty is not to be neglected or disregarded, it is nevertheless sound policy, consistent with the honor and best interest of the United States and promotive of international peace and good will to submit to arbitra-

⁴⁸ Reprinted from *Congressional Record*, vol. 68, pt. 2, p. 1843.

tion, or to some impartial tribunal empowered to apply the principles of international law, the diplomatic controversies with Mexico relating to the alleged retroactive and confiscatory provisions of the petroleum and alien-land ownership statutes asserted by Mexico to have been enacted under the 1917 constitution of the Mexican Republic.

That in good will and friendliness efforts should be made and persisted in to effect arrangements whereby all controversies which have arisen or which may hereafter arise with Mexico relating to the property or property rights of nationals of the United States in Mexico which may not be adjusted by diplomatic negotiations, shall be arbitrated or litigated under conditions which will commit the two Governments to the policy of abiding and executing any awards that may be made or judgments that may be rendered in consequence of such arrangements to arbitrate or litigate.

Press Release Issued by the Department of State, January 18, 1927

The Secretary of State today said:

"I have seen the resolution of Senator Robinson. I see nothing inappropriate or untimely in an expression of opinion on this subject by the United States Senate and I welcome it. The general principle of arbitration has constituted one of the leading policies of this Government from the beginning. Our record on that subject speaks for itself. The principle has been recognized in treaties with Mexico. For some time I have been giving very careful consideration to the question of the definite application of the principle of arbitration to the existing controversy with Mexico."

723.2515/2910

Memorandum by the Secretary of State of a Conversation With the Chilean Ambassador (Cruchaga), January 18, 1927

[Extract]

Proceeding to another matter the Ambassador stated that he had just returned from Mexico City where he had gone in his capacity as Presiding Judge of one of the Mixed Claims Commissions in which Mexico is interested. While there he stated that he had had a conversation with President Calles and with Señor Saenz, the Minister of Foreign Affairs. In substance these gentlemen had authorized and requested the Ambassador to say to the Secretary of State that if this Government should propose arbitration of the existing differences under the Petroleum Law, such proposal would be favorably considered by the Mexican Government.

7.1.12/881 : Telegram

The Ambassador in Mexico (Sheffield) to the Secretary of State

[Paraphrase]

MEXICO, January 19, 1927—7 p. m.

[Received January 20—1:40 a. m.]

25. This morning a United Press correspondent informed me that he had asked the Foreign Office whether it had any comments to make on your reported statement regarding arbitration. He was told that the Government of Mexico would be glad to submit pending questions to arbitration. This statement was authorized by the Minister for Foreign Affairs personally. I have learned from another source that the Foreign Office exhibited much satisfaction when it heard of your suggestion.

Today the Chief of the Diplomatic Bureau stated informally to this Embassy that the question of whether the provisions of article 27 of the Constitution were retroactive and confiscatory would not be submitted to arbitration by the Government of Mexico; that the Government of Mexico would not admit the right of any foreign authority to pass upon the legality or validity of the internal laws of Mexico; but that the Government of Mexico would be glad to submit to arbitration concrete cases involving American rights.

It is felt among well-informed American circles here that your reported acceptance of arbitration will have a tendency to relieve the Government of Mexico of the embarrassment which has existed since your firm Nicaraguan policy was made clear, and will encourage the President of Mexico in his antforeign policy.

SHEFFIELD

711.12/897

Memorandum by the Secretary of State of a Conversation With the Chilean Ambassador (Cruchaga), January 21, 1927

[Extract]

He then told me that he had heard from Mexico that my suggestion about arbitration was very satisfactory and said that he thought that the Mexican Ambassador and I could agree on an arbitration in a very short time. I told him that according to my information the Mexican Government was continuing its confiscatory acts; that they were daily cancelling permits to drill for oil on properties owned by American citizens and that, of course, we could not permit any such confiscatory proceedings to go on. He said that he might suggest to the Mexican Government that they stop their confiscatory

proceedings pending negotiation. I told him I did not care to have him make any suggestions; that the Mexican Government was going ahead with full knowledge of our position; that they understood it fully from my notes to that Government; that their attitude did not seem to be conciliatory at all. I declined to permit him to make any suggestions to the Mexican Government on the subject.

*Senate Resolution 327 As Amended and Agreed to
January 25, 1927*⁴⁹

Resolved, That while by virtue of sovereignty the duty devolves upon this Government to protect the lives and property of its nationals in foreign countries, which duty is not to be neglected or disregarded, it is nevertheless sound policy, consistent with the honor and best interests of the United States and promotive of international peace and good will, to submit to an arbitral tribunal, which shall apply the principles of international law, the controversies with Mexico relating to the alleged confiscation or impairment of the property of American citizens and corporations in Mexico; the arbitration agreement to provide for protection of all American property rights pending the final outcome of the arbitration.

That in good will and friendliness efforts should be made and persisted in to effect arrangements which will commit the two Governments to the policy of abiding by and executing awards that may be made in consequence of such arrangements to arbitrate.

CONVENTION BETWEEN THE UNITED STATES AND MEXICO EXTENDING DURATION OF THE GENERAL CLAIMS COMMISSION PROVIDED FOR IN CONVENTION OF SEPTEMBER 8, 1923, SIGNED AUGUST 16, 1927

Treaty Series No. 758

*Convention Between the United States of America and Mexico, Signed at Washington, August 16, 1927*⁵⁰

WHEREAS a convention was signed on September 8, 1923,⁵¹ between the United States of America and the United Mexican States for the settlement and amicable adjustment of certain claims therein defined; and

WHEREAS under Article VI of said convention the Commission constituted pursuant thereto is bound to hear, examine and decide within

⁴⁹ Reprinted from *Congressional Record*, vol. 68, pt. 2, p. 2233.

⁵⁰ In English and Spanish; Spanish text not printed; ratified by the President, Oct. 8, 1927, in pursuance of Senate Resolution of Feb. 17, 1927; ratified by Mexico, Sept. 30, 1927; ratifications exchanged at Washington, Oct. 12, 1927; proclaimed by the President, Oct. 13, 1927.

⁵¹ *Foreign Relations*, 1923, vol. II, p. 555.

three years from the date of its first meeting all the claims filed with it, except as provided in Article VII; and

WHEREAS it now appears that the said Commission cannot hear, examine and decide such claims within the time limit thus fixed;

The President of the United States of America and the President of the United Mexican States are desirous that the time originally fixed for the duration of the said Commission should be extended, and to this end have named as their respective plenipotentiaries, that is to say:

The President of the United States of America, Honorable Frank B. Kellogg, Secretary of State of the United States; and

The President of the United Mexican States, His Excellency Señor Don Manuel C. Téllez, Ambassador Extraordinary and Plenipotentiary of the United Mexican States at Washington;

Who, after having communicated to each other their respective full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

The High Contracting Parties agree that the term assigned by Article VI of the Convention of September 8, 1923, for the hearing, examination and decision of claims for loss or damage accruing prior to September 8, 1923, shall be and the same hereby is extended for a time not exceeding two years from August 30, 1927, the day when, pursuant to the provisions of the said Article VI, the functions of the said Commission would terminate in respect of such claims; and that during such extended term the Commission shall also be bound to hear, examine and decide all claims for loss or damage accruing between September 8, 1923, and August 30, 1927, inclusive, and filed with the Commission not later than August 30, 1927.

It is agreed that nothing contained in this Article shall in any wise alter or extend the time originally fixed in the said Convention of September 8, 1923, for the presentation of claims to the Commission, or confer upon the Commission any jurisdiction over any claim for loss or damage accruing subsequent to August 30, 1927.

ARTICLE II

The present Convention shall be ratified and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof the above-mentioned Plenipotentiaries have signed the same and affixed their respective seals.

Done in duplicate at the City of Washington, in the English and Spanish languages, this sixteenth day of August in the year one thousand nine hundred and twenty-seven.

FRANK B. KELLOGG [SEAL]
MANUEL C. TÉLLEZ [SEAL]

[Under date of August 16, 1927, a draft protocol providing for continuance of the work of the Joint Secretaries and of the respective agencies of the two Governments, pending the ratification of the convention signed August 16, 1927, was submitted to the Mexican Ambassador; the Mexican Government declined to sign the protocol. (File No. 411.12/926c.)]

TERMINATION OF THE CONVENTION BETWEEN THE UNITED STATES AND MEXICO TO PREVENT SMUGGLING, SIGNED DECEMBER 23, 1925⁶²

711.129/203a : Telegram

The Secretary of State to the Ambassador in Mexico (Sheffield)

WASHINGTON, *March 21, 1927—4 p. m.*

69. [Paraphrase.] At the earliest possible moment please deliver to the Minister for Foreign Affairs a note in the following terms: [End paraphrase.]

"Under instructions from my Government I have the honor to give to the Government of the United Mexican States on behalf of the United States of America the official notification contemplated by Article XV of the Convention to prevent smuggling into the respective territories of the two countries of articles the importation of which is prohibited by law and for other purposes, signed at Washington December 23, 1925, whereby the operation of the said Convention will terminate in accordance with its terms on March 28, 1927."

[Paraphrase.] It is the intention of the Department to give the following statement to the press immediately upon receipt of advice by telegraph from you of the day and hour when the note was delivered. [End paraphrase.]

"The Convention between the United States and Mexico to prevent smuggling and for certain other objects was signed December 23, 1925, ratified March 11, 1926, and proclaimed March 18, 1926. It went into effect so far as the United States was concerned upon March 28, 1926. By its terms the Convention was to remain in force for one year, upon the expiration of which period, if no notice of a desire to terminate it had been given by either party, it was to continue in force until thirty days after either party should give notice of termination.

Upon due consideration the Government has concluded to terminate the treaty at the expiration of the year, and has accordingly given the appropriate notice to the Government of Mexico.

It may be pointed out in this connection that the United States has no commercial treaty with Mexico, and that in the circumstances it is not deemed advisable to continue in effect an arrangement which might in certain contingencies bind the United States to cooperation for the enforcement of laws or decrees relating to the importation of

⁶² For text of convention, see *Foreign Relations*, 1925, vol. II, p. 510.

commodities of all sorts into another country with which this Government has no arrangement, by treaty or otherwise, safeguarding American commerce against possible discrimination."

Please advise promptly.

KELLOGG

711.129/210

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 3853

MEXICO, March 23, 1927.

[Received March 31.]

SIR: Referring to my telegram No. 117 of March 21, 1927, seven P. M.,⁵³ relating to the denunciation by the United States Government of the Smuggling Treaty with Mexico, I have the honor to transmit herewith a copy of the note which I delivered to the Mexican Foreign Office on that date⁵³ in compliance with the Department's telegraphic instructions, as well as a copy of note No. 5268 from the Secretary of Foreign Relations, dated March 22, 1927, in reply thereto, together with a translation. A translation of the latter note was also sent to the Department in my telegram No. 120 of March 23, 1927, 12 noon.⁵³

I have [etc.]

JAMES R. SHEFFIELD

[Enclosure—Translation^{53a}]

The Mexican Minister for Foreign Affairs (Sáenz) to the American Ambassador (Sheffield)

No. 5268

MEXICO, March 22, 1927.

MR. AMBASSADOR: I refer to Your Excellency's courteous note No. 1850 of the 21st of this month, in which, by instructions from your Government and in the name of the United States of America, you give the official notification to the Government of the United Mexican States referred to in article 15 of the convention to prevent smuggling into the respective territories of the two countries of articles the importation of which is prohibited by law, and for other objects, signed at Washington December 23, 1925, terminating in consequence the operation of the said Convention in accordance with its terms on March 28, 1927.

In reply I state to Your Excellency that in accordance with the provisions of the said article 15, the Mexican Government takes note of the above-mentioned notification and considers terminated the operation of the said convention as of March 28, 1927.

I renew [etc.]

AARÓN SÁENZ

⁵³ Not printed.

^{53a} File translation revised.

RENEWED NEGOTIATIONS FOR A SETTLEMENT OF THE DISPUTE
OVER THE RIO GRANDE BOUNDARY⁵⁴

711.12151A/117

The Secretary of State to the Ambassador in Mexico (Sheffield)

No. 1263

WASHINGTON, March 30, 1927.

SIR: The Department refers to your Embassy's despatch No. 3073 of October 28, 1926,⁵⁵ with which you enclosed copy and translation of a note dated October 27, 1926, from the Mexican Foreign Office in relation to the matter of concluding a convention for dealing with the rectification of the channel of the Rio Grande, as far as Fort Quitman, Texas.

The Department understands from the Mexican note in question that the Government of Mexico accepts in principle the idea of concluding a convention for the purpose indicated, which shall also deal with the question of the status of the lands segregated from the one country or the other by the contemplated works.

It also appears from the note that the Mexican Government is of the opinion that the International Boundary Commission is the appropriate body to formulate the convention in question.

In reply to the note mentioned, you will inform the Foreign Office that your Government accepts the view of the Mexican Government that the International Boundary Commission may appropriately draft the convention in question and is prepared to instruct the American Commissioner to proceed with the work, upon being advised that the Mexican Government will send similar instructions to the Mexican Commissioner. You will conclude by expressing the hope that the action indicated may be taken at an early date.

I am [etc.]

FRANK B. KELLOGG

711.12151A/125

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 4029

MEXICO, April 27, 1927.

[Received May 5.]

SIR: I have the honor to refer to the Department's instruction No. 1263 of March 30, 1927, in relation to the matter of concluding a Convention with Mexico dealing with the rectification of the channel of the Rio Grande as far as Fort Quitman, Texas, and to inform the Department that I am now in receipt of a note from the Foreign Office, dated April 25, in reply to my note of April 5, 1927, a copy of which was transmitted with my despatch No. 3914.⁵⁶ A translation of this note follows:

⁵⁴ Continued from *Foreign Relations*, 1926, vol. II, pp. 706-715.

⁵⁵ *Ibid.*, p. 713.

⁵⁶ Despatch not printed.

"From the contents of Your Excellency's courteous note No. 1882 of the 5th instant, I have been pleased to learn that the Government of the United States of America accepts the idea of Mexico that the Convention fixing the bases upon which the proposed rectification of the Rio Grande between El Paso and Fort Quitman shall be effected, shall be studied and submitted by the International Boundary Commission.

"I also note that the Government of the United States is disposed to instruct its Commissioner to proceed with this work and I take pleasure in advising Your Excellency that instructions are being issued to the Mexican Commissioner in this same sense."

A copy and translation of this note are transmitted herewith.

I have [etc.]

JAMES R. SHEFFIELD

ADMINISTRATION OF THE EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO MEXICO"

812.113/10097 : Telegram

The Secretary of State to the Chargé in Mexico (Schoenfeld)

WASHINGTON, July 30, 1926—2 p. m.

248. Following for your information.

Department removed non-military aircraft destined to points in Mexico from embargo on July 21 and requested Treasury Department to instruct the various collectors of customs accordingly and to advise them that this ruling does not apply to aircraft intended for hostile purposes or aircraft of a distinctly military type.

KELLOGG

812.24/477

The Mexican Chargé (Castro-Leal) to the Secretary of State

[Translation ⁵⁸]

WASHINGTON, October 15, 1926.

MR. SECRETARY: I have the honor to inform Your Excellency that the Government of Mexico is negotiating with the Douglas Company of Los Angeles, California, for the purchase of eight airplanes of the type used by the American Army. My Government wishes to have those airplanes completely equipped with the accessories applied for and to that end I respectfully request Your Excellency to use your valuable influence with the appropriate authorities in order that the necessary permit be granted for installing the said machines

⁵⁷ See proclamation by President Coolidge, Jan. 7, 1924, *Foreign Relations*, 1924, vol. II, p. 428.

⁵⁸ File translation revised.

with equipment for bombardment, photography, electrical installation, etc.

I thank Your Excellency in advance for the attention and support you may be pleased to give to this request and take pleasure [etc.]

ANTONIO CASTRO-LEAL

812.24/477

*The Secretary of State to President Coolidge*⁵⁹

[WASHINGTON,] December 16, 1926.

DEAR MR. PRESIDENT: I am inclined to send the note hereto attached to the Mexican Ambassador⁶⁰ in reply to his note.

Heretofore the Mexican Government has applied to us from time to time for the shipment of arms and we have permitted such shipments. At the present time, the Government is asking for a certain amount of munitions and eight airplanes. We are orally informed that these airplanes are to be used for bombing the Yaqui Indians who are in rebellion in the Yaqui country.

There are three considerations which move me to the conclusion not to grant this:

(1) It is, of course, known to the Yaqui that the Mexican Government is trying to get airplanes and, if they are shipped, everybody in that region will know where they come from. I am not at all sure that the Yaqui will not retaliate on American citizens in that region and I doubt very much the ability of the Mexican Government to protect American lives and interests;

(2) Mexico is now shipping a large amount of arms to Nicaragua for the use of the rebels and stirring up opposition to the present Government. I cannot believe that it is the policy for us to ship arms to Mexico when Mexico can spare arms to go to Nicaragua. . . .

(3) Mexico is not now protecting American property. As I have informed you, there has lately been a raid on a ranch just across the Rio Grande and we have been unable to get any assurance for protection. Furthermore, I think at this time it is a very good thing for Mexico to understand that we are reconsidering the whole subject of the arms embargo and, as I do not wish to enter into any discussion with the Mexican Ambassador on the subject, I am inclined to put the sentence which you will observe at the end of the note.

Sincerely yours,

FRANK B. KELLOGG

⁵⁹ A notation on the file copy reads "Approved by President. K."

⁶⁰ See note *infra*.

812.24/477

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, December 16, 1926.

EXCELLENCY: With further relation to Your Embassy's note of October 15, 1926, in which it was stated that your Government was negotiating with the Douglas Company of Los Angeles, California, for the purchase of eight aeroplanes of the type used by the United States army, together with equipment for bombardment, photography, electrical installation, et cetera, I now have the honor to acknowledge the receipt of Your Excellency's note of November 30,⁶¹ in which you ask that I bring my influence to bear on the proper authorities to the end that the Collector of Customs at Nogales, Arizona, be instructed to allow the said aeroplanes, together with their equipment, to be exported to Mexico.

I regret to have to inform Your Excellency that the competent authorities of this Government have decided that it is not expedient under the present circumstances to permit the exportation of these aeroplanes and their equipment to Mexico.

Furthermore, I may say that the general question of the maintenance of the arms embargo is at this time being reconsidered by my Government.

Accept [etc.]

FRANK B. KELLOGG

812.24/509

The Mexican Ambassador (Téllez) to the Secretary of State[Translation ⁶²]

WASHINGTON, December 23, 1926.

MR. SECRETARY: In compliance with instructions from my Government I applied to Your Excellency in notes dated October 15 and November 30, 1926,⁶³ respectively, requesting you to use your influence with the appropriate authorities of the Government of the United States to secure permission to export to Mexico eight airplanes with the necessary accessories intended for the Mexican Army.

In your reply of the 16th of this month to the request contained in both notes, Your Excellency was pleased to state that the competent authorities of your Government had decided that it was not expedient under the present circumstances to permit the exportation of these airplanes and their equipment to Mexico. That decision was forwarded to my Government which has taken note of it.

⁶¹ Not printed.

⁶² File translation revised.

⁶³ Latter not printed.

As a point extraneous from the subject of the contents of this note, Your Excellency is pleased to state in the last paragraph of your note of December 16, that the question of the maintenance of the embargo on the export of arms (to Mexico) is now being reconsidered by the Government of the United States. Being informed of the tenor of that paragraph in Your Excellency's note my Government has instructed me, and I now have the honor to carry out its instruction, to thank Your Excellency for your courteous intimation that the question of the maintenance of the arms embargo is now being reconsidered by the Government of the United States. May I be permitted to add as a mere explanation that the Government of Mexico has neither now nor previously taken any steps with the Government of Your Excellency for maintaining or lifting the arms embargo which was spontaneously ordered by the Government of the United States.

Kindly accept [etc.]

MANUEL TÉLLEZ

812.248/10

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 3454

MEXICO, December 29, 1926.

[Received January 6, 1927.]

SIR: I have the honor to inform the Department that according to this morning's edition of the newspaper *Excelsior* four Douglas Aeroplanes ordered by the Mexican Government in the United States were received and are "now operating in the Yaqui district with excellent results". It is stated that they were assembled at the station of Ortiz, having arrived packed in special cases and it having been necessary to equip them with machine guns and bombing apparatus. It is stated that although it is true that the American Government prohibited the exportation of the entire order of "aeroplanes placed in the United States", four of them had already crossed the border and it was impossible to "carry out the instructions of the officials of the White House".

On the other hand the newspaper *El Universal* of today's date publishes a telegraphic despatch from Nogales, Arizona, dated yesterday to the effect that on December 27, eight aeroplanes intended for the Mexican Government arrived at Nogales but can not be exported in view of the refusal of the American Government to grant permission for such export. It is added that it has been decided to warehouse the planes with the Walker Transport Company.

I have [etc.]

JAMES R. SHEFFIELD

S12.248/10

The Secretary of State to the Ambassador in Mexico (Sheffield)

No. 1164

WASHINGTON, January 8, 1927.

SIR: The Department acknowledges the receipt of your despatch No. 3454 of December 29, 1926, stating that the newspaper *Excelsior* published a report on December 29, 1926, to the effect that four Douglas aeroplanes recently ordered by the Mexican Government have been received and are "now operating in the Yaqui district with excellent results".

In reply, there is enclosed a copy of a memorandum setting forth certain information with regard to the aeroplanes in question.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

[Enclosure]

Memorandum by the Assistant Chief of the Division of Mexican Affairs (Tanis)

[WASHINGTON,] January 8, 1927.

In a note dated October 15, 1926, the Mexican Embassy at this capital informed the Department that the Mexican Government was negotiating with the Douglas Company of Los Angeles, California, for eight aeroplanes of the type used by the United States Army. The note contained a request that the necessary permits be granted by the appropriate authorities of this Government to have these aeroplanes supplied with equipment for bombardment, photography, electrical installation, etc.

Under date of November 30, 1926, the Collector of Customs at Nogales, Arizona, telegraphed this Department⁶⁴ that the Mexican Government, through the Mexican Consul at Nogales, had requested permission to export eight aeroplanes for use in the Yaqui campaign. On December 1, 1926, this Department sent the following telegram to the Collector:

"It is stated by the Mexican Embassy that eight aeroplanes with equipment which the Mexican Government desires to purchase from the Douglas Company at Los Angeles are now in the Customs at Nogales. Permits for the entry of these planes and equipment have been requested by the Mexican Embassy. Pending further consideration of this matter, you will please exercise especial diligence in order to prevent, through misunderstanding or otherwise, any possibility of these planes being flown into Mexico without especial authorization from this Department."

In response to a telegraphic inquiry of the 24th ultimo,⁶⁵ however,

⁶⁴ Telegram not printed.

⁶⁵ Not printed.

the Collector reported in a telegram of the same date ^{65a} that four aeroplanes, non-military type, were exported on November 30, by railroad, and that the whereabouts of the other four aeroplanes was not known but that they had not been offered for exportation at Nogales. The Collector has since informed the Department, under date of December 29, that the four aeroplanes in question were then being stored in a warehouse at Nogales and that he would keep them under surveillance.

Under date of December 28, 1926, the Department of State informed the Secretary of the Treasury ^{65a} that, after further consideration, it had been determined to reimpose the embargo upon aircraft of every description destined to points in Mexico without regard to the purpose for which such aircraft may be intended. At the same time the Treasury Department was requested to instruct the various collectors of customs accordingly.

R. C. T[ANIS]

812.113/10225 : Telegram.

The Ambassador in Mexico (Sheffield) to the Secretary of State
MEXICO, May 31, 1927—noon.

[Received June 1—1:14 a. m.]

218. This morning's press publishes Presidential decree dated yesterday which is as follows in translation:

"In view of the fact that the Government of the United States of America has established a systematic embargo on merchandise acquired by various dependencies of the Federal Government, a procedure whereby serious injuries are caused in the administrative conduct of said dependencies, since even now many of the articles already bought have not been received, the Executive in my name has decided to direct, in order to avoid the inconvenience caused by this unjustified delay, that from the date of the present decree all Departments of State and Administrative Departments abstain absolutely from purchasing directly or indirectly in the said country furniture, machinery, articles of consumption and articles in general intended for the administration of the public services and that such purchases be made in all cases from commercial firms established within the national territory.

For this purpose the Department of Foreign Relations will immediately issue definite orders to the Embassy and consulates of the Republic in the United States so that they may on no account make payment in contravention of the orders herein contained and the Department of Finance and Public Credit will issue orders in the same sense to the Financial Agency of Mexico in New York.

Given in the National Palace May 30, 1927.

The President of the Republic, (signed) Plutarco Elias Calles."

SHEFFIELD

812.113/10226 : Telegram

The Ambassador in Mexico (Sheffield) to the Secretary of State

[Paraphrase]

MEXICO, June 1, 1927—noon.

[Received 5:11 p. m.]

220. Department's telegram number 129, May 31,⁶⁶ and Embassy's telegram number 218, May 31.

Since the only embargo now in force in the United States on the export of goods to Mexico concerns arms and munitions it would be pertinent to indicate that any objections on Mexico's part as set forth in President Calles' decree of May 30 could be met by immediately lifting this embargo.

Decree has not yet appeared in the *Diario Oficial*.

SHEFFIELD

812.113/10237

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 4206

MEXICO, June 3, 1927.

[Received June 9.]

SIR: Referring to my telegram No. 218 of May 31, last, twelve noon, transmitting for the Department's information translation of a Presidential Order of May 30, 1927, forbidding Mexican Government Departments to purchase commodities for their use in the United States, I have the honor to report that this morning's press publishes an official statement from the Foreign Office, of which the following is the translation:

"The Department of Foreign Affairs declares officially that the Order which the President of the Republic issued a few days ago regarding the suspension of purchases in the United States by dependencies of the Federal Government was based, among other considerations, upon the damage caused by a substantial investment of money representing purchases made and not only refers to merchandise acquired in the United States, but also to the case of merchandise obtained in Europe which has been detained in transit through the United States with corresponding injury. The Order of the President by no means constitutes a boycott of American merchandise, since it is limited to preventing dependencies of the Federal Government from buying in the United States without prejudice to their purchasing them in Mexico, without taking into consideration whether they are American or not.

"Consequently, the order referred to tends to safeguard the financial interests of the Government and to prevent delays in goods which are necessary to it, and this can in no manner affect the cordial relations existing between Mexico and the United States."

⁶⁶ Not printed.

Press statements accompanying the publication of this official declaration of the Foreign Office indicate that it has been given out from official sources "that not only were obstacles being placed in the United States in the way of the transport of war materials, but that restrictions were being imposed even upon barb wire intended for agricultural fences and upon articles destined for the repair of railroads and rolling stock ordered in the neighboring country by the National Railways".

This would seem to be in harmony with the Embassy's surmise that the information contained in its despatch No. 4193 of yesterday's date⁶⁷ and emanating, among others, from Lionel Dalkowitz, who had purchased a quantity of barbed wire in the United States, was correct.

I have [etc.]

JAMES R. SHEFFIELD

812.24/612

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation⁶⁸]

WASHINGTON, July 6, 1927.

MR. SECRETARY: I have the honor to acknowledge the receipt of Your Excellency's three notes, one dated the 29th and two the 30th of June last,⁶⁹ relative to applications for permits to export to Mexico 25 tons of powder intended for the Secretaría de Guerra y Marina; 211 carbines, caliber 30-40, and 36,000 cartridges for the customs inspectors of Nuevo Laredo, Tamaulipas; and 50 Thompson pistols for the National Railways of Mexico. In the above-mentioned notes Your Excellency was pleased to inform me that the said permits had not been granted.

In addition to the arms and material referred to in the said notes, the Embassy requested by note, through Your Excellency's worthy medium, a permit to export six Douglas airplanes and accessories originally destined for the Jefe de las Armas in Sonora, and orally on several occasions, of the Chief of the Mexican Division, for action in the matter of seven cases of pistols consigned to the Departamento de Establecimientos Fabriles y Aprovisionamientos Militares which arrived at New York from Antwerp, Belgium, destined for Mexico, and were held in the American port as they were being transhipped to a steamer of the Ward Line.

My Government was genuinely surprised to learn that for some time past permits for the export of arms intended for the Secretaría de Guerra y Marina and other public offices have been denied; so that

⁶⁷ Not printed.

⁶⁸ File translation revised.

⁶⁹ None printed.

there appears to have been established a practice in that sense which seems to my Government to be groundless if the relations of friendship which exist between the Government which I represent and that of Your Excellency are taken into consideration. I may state, however, that my Government has no special desire that the practice, if it has been finally established, be discontinued; but I do wish to let Your Excellency know in the clearest possible way that the extent of the provisions of the order placing an embargo on arms in the United States for Mexican official shipments without any previous notice, has been the cause of certain confusions and difficulties which on various occasions have been fully made known to officers of your Department and concerning which we felt we might hope for a remedy, relying as we did on the strength of the argument presented in support of the case.

The material for the export of which the Embassy has requested permits, hereinabove referred to, has already been paid for to the exporting houses; so that the denial of the permits not only stands in the way of my Government receiving the said material, which is a difficulty that can be easily remedied since they may be acquired by my Government in other countries, but it immobilizes a capital which up to date has not been able to yield a return, seeing that its restitution would meet with obstacles in the way of agreements and contracts by which the purchases were made. The situation is such that it might be said that neither the Government of Mexico can now employ the moneys invested in the purchase of the said arms without a drawn out procedure nor the producing houses dispose of them, seeing that they have been paid for; and that should my Government recover the sums that have been so spent, the financial injury would almost entirely fall upon the manufacturing houses; thus the application of the provisions of the embargo in this case goes far beyond the original purpose of the embargo, that is to say, it not only prevents the shipment of arms to Mexico, but also is causing disproportionate damages not only to my Government but also to the manufacturing houses. Again, in a special case, that of the detention of the cases of pistols bought by my Government in Belgium, the action undoubtedly exceeded the terms of the order establishing the embargo on arms, since the arms here under consideration are shipped in transit. Your Excellency will not fail to see that as this act is one that is not justified by the laws bearing on the subject, it is very difficult not to interpret it as the result of a desire to pile up obstacles in the way of the acquisition of arms by my Government, which, on the other hand is inconsistent with the cordial relations that unite our countries.

The matter of arms and ammunition for the customhouse station of Nuevo Laredo has been explained in detail to the Chief of the

Mexican Division, and I deem it expedient here to repeat it. In accordance with our laws the customs inspectors must supply their own arms and ammunition when entering upon their duties. The inspectors delivered the money necessary for the purchase of the arms and ammunition to the Collector of Customs, the orders as a whole being placed in the United States some months ago.

The damage done in this case by the refusal of the respective permit bears directly on the employees themselves and indirectly, as Your Excellency will not fail to see, on the good of the service of the customs inspection, which because it is exercised on the frontier separating our country from the United States, may also be attended with consequences that would be unpleasant for this country. The Thompson machine guns are intended for the Mexican railways for the protection of the trains that run in places where there is reason to doubt that safety conditions are adequate.

However, the purpose for which the arms are to be put, whose export has been requested, is not the principal argument advanced in support of the granting of the permits, but the situation which in fact has been created by Your Excellency's Government extending the provisions of the embargo to official shipments without previous notice, which on account of the unexpected form it has assumed would fully justify the solution of the pending cases already referred to, and whose adverse consideration does not appear to be warranted by the friendly relations existing between our countries.

In closing, I take the liberty of requesting Your Excellency kindly to inform me so that I may report to my Government whether it is now the definite and settled policy of the Government of the United States to extend the embargo provisions to official shipments of arms and other war material.

I avail myself [etc.]

MANUEL TÉLLEZ

S12.113/10321½

*The Assistant Chief of the Division of Mexican Affairs (Tavis)
to the Under Secretary of State (Olds)*

WASHINGTON, October 8, 1927.

DEAR MR. OLDS: With reference to the attached list I may say that the following have protested against the embargo as at present enforced and have requested that the embargo be modified, on the ground that munitions of war are being imported into Mexico from Europe and that, therefore, the effect of the embargo has a detrimental effect upon American business and enterprise:

1. The Western Cartridge Company, East Alton, Illinois.
2. Mr. J. H. A. Williams, Mexico City.

3. The Westinghouse Electric Company, Mexico City.
4. The Radio Corporation of America, New York City.
5. The Aeronautical Chamber of Commerce of America, New York City.
6. Dalkowitz Brothers, San Antonio, Texas.
7. The DuPont Powder Company, Wilmington, Delaware.
8. J. A. Medina Company, New York City.
9. Smith and Wesson, Springfield, Massachusetts.
10. Colt Fire Arms Company, New Haven, Connecticut.
11. Remington Arms Company, Inc., Hartford, Connecticut.
12. Fairchild Aerial Surveys, Inc., New York City.
13. United States Cartridge Company, New York City.
14. United States Steel Products Company, New York City.
15. Doctor Julius Klein of the Department of Commerce is of the opinion that the Embargo situation as it affects aircraft to Mexico should be made the subject of a careful review.
16. The Embassy at Mexico City recommends that in view of recent developments involving importations into Mexico of airplanes and munitions of war from Europe, the whole Embargo situation be given careful consideration.

R[ICHARD] C. T[ANIS]

812.113/10327

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 5114

MEXICO, October 28, 1927.

[Received November 2.]

SIR: Confirming my telegram No. 394 of today's date, eleven A. M.,⁷⁰ I have the honor to quote below the text, as published in the local press, of an Executive decree under yesterday's date, abrogating the Presidential order of May 30, last,⁷¹ prohibiting the dependencies of the Mexican Government from making purchases in the United States. Translation follows:

"The Executive in my charge has deemed it convenient to abrogate from the first day of November, next, order No. 863 of May 30, last, whereby it was directed that the various dependencies of the Executive should abstain absolutely from making purchases in the United States of North America; the said dependencies are, consequently, authorized to import from the trade in the neighboring country to the North or from any others the articles which may be necessary for their services, always provided these articles can not be acquired from the trade in the republic.

"Given in the Palace of the Federal Executive Power at Mexico, D. F. on the 27th day of the month of October of 1927.

"The President of the Republic, (Signed) P. Elias Calles."

⁷⁰ Not printed.

⁷¹ See telegram No. 218, May 31, 1927, from the Ambassador in Mexico, p. 238.

In announcing the issuance of this decree, the Department of Finance issues a statement calling attention to the fact that on May 30, last, the President of the Republic ordered the dependencies of the Mexican Government to cease making purchases of merchandise, manufactures, etc., in the United States, in view of the fact that various orders of the Mexican Government made in the United States had been "unjustly detained". It is added that at that time the American authorities maintained a systematic embargo on the acquisitions of the offices of the Federation, necessitating the cancelation of various contracts made in the United States and the placing of orders in Europe. The Department of Finance says that the President now considers that his original order is no longer necessary and that he, therefore, has authorized the renewal of purchases in the United States if such purchases are more advantageous than dealings with other countries. Finally, according to the Department of Finance, all the appropriate authorities of the Mexican Government, both within and without the republic, which had previously been ordered to make no payment in contravention of the order of May 30, last, will now be apprised of the provisions of the new decree.

I have [etc.]

H. F. ARTHUR SCHOENFELD

812.24/604

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, December 3, 1927.

EXCELLENCY: Referring to Your Excellency's note of June 29, 1927,¹² and to your conversation this morning at the Department of State, in relation to a shipment of 211 rifles, caliber 30-40, and 36,000 rounds of ammunition therefor, intended for the use of the customs authorities at Nuevo Laredo, Mexico, which the Standard Export and Supply Company desires to ship through the port of Laredo, Texas, I am pleased to inform you that the Collector of Customs at Laredo has today been instructed, by telegraph, to permit this shipment to proceed to its destination.

It does not appear from the shipper's application for an export license that the 29 revolvers, caliber .38, consigned to Emilio A. Combaluzier, of Mexico City, which you also mentioned this morning, are intended for the use of your Government's customs officials. Nevertheless, in view of the importance which your Government attaches to the release of this shipment, I take pleasure in informing you that, after careful consideration of the matter, the Department has decided to make an exception in this case and has therefore today

¹² Not printed.

mailed license No. 6287 to Messrs. Smith & Wesson, of Springfield, Massachusetts, authorizing that firm to export the 29 revolvers in question.

Accept [etc.]

For the Secretary of State:

ROBERT E. OLDS

812.24/655a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, December 21, 1927—6 p. m.

304. The Department would like to know if in your opinion this is the opportune time to relax the present restrictions on the exportation to Mexico of airplanes, munitions, and other supplies purchased by the Government of Mexico and now held up in the United States. Your suggestions will be appreciated.

KELLOGG

812.24/656 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, December 24, 1927—noon.

[Received 3:45 p. m.]

455. Department's 304, dated December 21. In my opinion now would be the opportune time to relax the present restrictions on the exportation of airplanes, munitions, and other supplies purchased by the Government of Mexico.

MORROW

812.24/592

The Secretary of State to the Mexican Ambassador (Téllez)

The Secretary of State refers to the note dated July 6, 1927, from His Excellency, the Ambassador of Mexico, regarding the desire of the Mexican Government to ship to Mexico certain arms and ammunition, the permission for which had not been granted by the Department of State.

The Secretary of State is now happy to advise the Ambassador of Mexico that permission has been given to the Ward Line of New York to export to Mexico five cases of guns and one case of bayonets, consigned to Jefe de Hacienda de Vera Cruz, this shipment having arrived in New York from Antwerp, Belgium, on the steamship *Arabic*, Decem-

ber 27, 1926, and that E. I. duPont de Nemours and Company, Incorporated, of Wilmington, Delaware, has also been authorized to export twenty-five tons of powder intended for the Mexican Department of War and Marine, referred to in the note of June 29, 1927, from the Secretary of State to His Excellency, the Ambassador of Mexico.⁷³

WASHINGTON, *December 30, 1927.*

812.113/10378a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, *March 23, 1928—6 p. m.*

78. Department's telegram No. 248, July 30, 1926. As stated in last paragraph of memorandum transmitted with Department's instruction No. 1164 of January 8, 1927, it was decided in December 1926 to reimpose embargo upon aircraft of every description destined to points in Mexico without regard to the purpose for which such aircraft may be intended. Since December 1927, however, Department has approved in every instance requests for exportation of commercial airplanes. With a view to fostering commercial aviation between the United States and Mexico, Department has now decided to eliminate commercial aircraft from list of articles destined to Mexico requiring individual export licenses and has requested Treasury Department to notify Collectors of Customs at border points. Please request Consul General to inform all consular officers in Mexico.

KELLOGG

SUPPRESSION OF ACTIVITIES OF MEXICAN FACTIONS ON THE BORDER IN VIOLATION OF LAWS OF THE UNITED STATES

812.00/28935

The Mexican Chargé (Castro-Leal) to the Secretary of State

[Translation ⁷⁴]

WASHINGTON, *November 4, 1927.*

MR. SECRETARY: I have the honor to inform Your Excellency that for some time past this Embassy has been receiving reports concerning the activities of a group of Yaqui Indians who are refugees near the border, which activities are being carried on in the United States under the direction of some well-known Mexican political malcontents.

Toward the end of last June the authorities of Tucson, Arizona, searched the houses occupied by certain Yaqui refugees in that city

⁷³ Not printed.

⁷⁴ File translation revised.

and succeeded in seizing arms, ammunition and some other implements of war held by these Indians with the intention of transferring them to Mexican territory for organizing an armed movement against the present Government of Mexico.

Notwithstanding the attention given by the American authorities in enforcing respect for the neutrality laws in this case, we are still receiving reports indicating that the subversive activities of those groups are kept up, and in view of this fact I have by direction of my Government the honor most respectfully to ask for the cooperation of Your Excellency's Government to the end that the necessary measures may be taken to prevent these activities.

Thanking Your Excellency [etc.] ANTONIO CASTRO-LEAL

812.00/29038

The Secretary of State to the Mexican Ambassador (Téllez)

The Secretary of State presents his compliments to His Excellency the Ambassador of Mexico, and, referring to the Mexican Embassy's note of November 4, 1927, concerning reports that Yaqui Indians along the Arizona border were engaged in efforts to transfer implements of war from the United States to Mexico, has the honor to inform the Ambassador that the appropriate branch of this Government has submitted a report dated December 5, 1927, with regard to the matter. The pertinent portion of the report reads as follows:

This matter, since the early part of this year, has been under surveillance by Federal Agents. The greater number of the Yaqui Indians coming into the United States from Mexico since last April still reside in the Tucson country. Some few have returned to Mexico. As to the smuggling of ammunition into Mexico, no information has been received that any large quantity has been carried back by Yaquis returning to their native land.

The activities of all the different factions on the Mexican border adjoining Arizona have been watched very closely in consequence of which a number of indictments have been returned in the Tucson and Los Angeles districts. Recently Jose Gandara was convicted at Tucson, Arizona, in the Federal Court, and received a sentence of two years in McNeil Island Penitentiary, and was fined the sum of \$1,000.00. Other cases are now pending in the Tucson and Los Angeles districts.

WASHINGTON, December 20, 1927.

WITHDRAWAL OF SUBPOENA BY THE UNITED STATES SENATE UPON
MEXICAN CONSUL GENERAL AT NEW YORK ON ASSURANCE THAT
CONSUL GENERAL WOULD APPEAR VOLUNTARILY

817.00 H 35/16

Memorandum by the Under Secretary of State (Olds) of a Conversation with the Mexican Ambassador (Téllez), December 12, 1927

Present: Mr. Olds and Mr. Castle.

The Ambassador called at my request. I opened the conversation by stating that since his last call we had been considering carefully the situation which had been created by the Senate investigation, and that in particular we were examining the legal questions arising in connection with the subpoena which had been served by the Senate Committee upon the Mexican Consul General at New York.⁷⁵ We were anxious to consult with the Ambassador with a view to finding a way of eliminating any difficulties and embarrassments inherent in this situation. I went on to state that so far as we had investigated the matter ourselves, we were of the opinion that a consul, in the absence of treaty provisions to the contrary, did not enjoy the usual diplomatic immunities, and that he could be summoned as a witness to testify as to unofficial matters within his knowledge. I proceeded to say we were satisfied that a consul could not be required in any proceeding to produce official papers which were the property of his Government, or testify as to their contents, or testify as to official business transacted by him as consul. I inquired whether, if we should be asked by the Senate Committee for any opinion on this subject, he would think it would be helpful for us to give an opinion along these lines. The Ambassador said that it appeared his Government took a different view from ours. He did not think that a consul could be called at all as a witness in a proceeding such as that now pending in the Senate. He had advised the Consul General not to appear unless he was ordered to do so direct from Mexico. He did not think the Consul General would get any instructions to appear. I then said that of course the Senate proceeding was nothing that we had anything to do with. We could not control it in any way. We should have to assume that the Senate thought it had power to subpoena the Consul General; otherwise the subpoena would not have been issued. If the Senate insisted upon its position and proceeded as in other cases, it might go ahead and arrest the Consul General if he failed

⁷⁵ See *Investigation of Alleged Payments by the Mexican Government to United States Senators*; Hearings Before a Special Committee . . . Pursuant to S. Res. 7, . . . Dec. 15, 16, 17, 20, and 27, 1927, and Jan. 4 and 7, 1928 (Washington, Government Printing Office, 1928).

to appear. We thought this would be highly unfortunate and that the possibility of such action ought to be obviated at all events. There was some further conversation, in the course of which the Ambassador emphasized two or three times the fact that the Consul General is the brother of the President of Mexico. He also said that he was worrying a great deal about what he should have to do if the President of Mexico was insulted on the floor of the Senate. Mr. Castle and I had the impression that he was considering resigning and going home in that eventuality.

The upshot of the whole interview was this: The Ambassador states flatly that the dignity of Mexico absolutely requires that its Consul General be accorded immunity from subpoena in this case. He will not appear. What will happen if the Consul General is arrested for disobedience to the subpoena was not gone into although we gave the Ambassador full opportunity to deal with that phase of the subject. The Ambassador himself suggested two alternatives—

- 1.—That he write an official note to the Secretary of State calling attention to the facts of the present situation, and giving the reasons why the Consul General cannot and will not appear. In this note he will state that if the Consul General did appear, he could do nothing more than deny the authenticity of the documents.

- 2.—That the Senate Committee frame the questions which it wishes to ask the Consul General and submit them through the Ambassador, who will undertake thereupon to get the Consul General's answers and transmit them.

The Ambassador also said that he would issue another public statement if it would do any good. We told him that the note which he had suggested might prove useful, and he is going to send such a note to us the first thing in the morning.

Mr. Castle and I at several points in the conversation endeavored to make the Ambassador see the advantages which might accrue from a voluntary appearance by the Consul General. Mr. Castle spoke of his own appearance before the Committee, and of their apparently fair and reasonable attitude. The Ambassador, however, was steadfast in holding that the Consul General could not appear in response to a subpoena if the dignity of his Government is to be preserved. It was evidently not possible to get the Ambassador to appreciate the distinction between a voluntary appearance with reservations spread on the record so far as the subpoena was concerned, and a compulsory appearance under the subpoena. The only thing that would satisfy the Ambassador would be a withdrawal of the subpoena.

817.00 H 35/17

Memorandum by the Under Secretary of State (Olds) of a Conversation with the Mexican Ambassador (Téllez), December 13, 1927

The Mexican Ambassador called me on the telephone at two p. m. and said that he had had a long telephone talk with his Minister of Foreign Affairs, and that the position of his Government was as he had stated to me in his oral conversation yesterday; nevertheless his Government did not wish to block the investigation and would be willing to have the Consul General appear voluntarily and in his personal capacity, provided that an arrangement could be made whereby he did not appear under subpoena. I told him that I would take the suggestion under consideration and was hopeful that an arrangement along these lines might be effected.

R[OBERT] E. O[LDS]

817.00 H 35/18

Memorandum by the Under Secretary of State (Olds) of a Conversation with the Mexican Ambassador (Téllez), December 14, 1927

The Ambassador came in at ten o'clock at my request. I told him we had been considering the suggestion made by him over the telephone, and that I was of the opinion that it might prove an easy solution of our difficulty. I suggested that he write me a note immediately on the subject. It seemed to me that his note might set forth the view of his Government to the effect that its Consul General was not, under the rules of international law, bound to appear in response to this subpoena; that such appearance would not be consistent with the dignity of his Government; that his Government would be willing to have its Consul General appear voluntarily in his personal capacity, claiming, of course, immunity from inquiry for his records and official acts; and if an arrangement could be effected whereby he did not appear under subpoena his Government would undertake to have the Consul General come before the Committee.

The Ambassador said that I should have a note in that tenor from him before noon. He said that if the arrangement proved satisfactory to the Committee, he would at once telephone the Consul General and have him here in Washington tomorrow morning.

R[OBERT] E. O[LDS]

817.00 H 35/20

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation ⁷⁰]

WASHINGTON, December 14, 1927.

MR. SECRETARY: On the morning of the 10th of this month the consul general of Mexico at New York informed me by telephone

⁷⁰ File translation revised.

that he had just received on the morning of Thursday the 15th [8th?] of this month a subpoena to appear before the Committee recently named by the Senate to investigate certain documents calumnious of high officials of the Government of Mexico, as well as of the United States, which have been appearing for some days in the Hearst publications with a manifestly tendentious aim. In view of the gravity and urgency of the case, I telephoned Your Excellency and informed you, as at your request I also did the Under Secretary of State, the Honorable Robert E. Olds, of that which had been stated to me, requesting the intervention of the Department of State in the form believed most adequate to alleviate an unjustified situation which had been created by the action of the Committee of the Senate, not only for the consul general but also for my Government.

As I have orally informed Your Excellency and other high officials of the Department of State on repeated occasions, my Government in cases like the one under consideration holds the opinion that in conformity with the fundamental principles and practices of international law, the Government of the United States should grant to the consul general of Mexico at New York complete immunity from the subpoena which has been served on him. Notwithstanding this, my Government—which at the appropriate time and through all its agencies duly authorized, denounced in a public, categorical and general manner the falsity of the documents on which are based the statements published by the Hearst papers, and which has seen with sincere sorrow that the said papers have even gone to the extreme of injuring the honor and good name of some of the respected members of the Senate of the United States—my Government, I repeat, feels moved by an intense desire to lend its cooperation for the success of the work which the Committee of the Senate has initiated tending to establish the falsity of the said documents and would gladly cooperate if it found a possibility of doing so while protecting in an unequivocal manner, on the one hand, the rights which in conformity with the principles and practices of international law appertain to its agents duly accredited to foreign governments, and, on the other hand, the national dignity.

By virtue of the foregoing, and duly empowered by the authority which I obey, I now state to Your Excellency, that if the Department of State should find an expeditious way by which the Committee of the Senate might withdraw the subpoena on our consul at New York, my Government would consider as protected the reservation to which I allude, and thus, without any precedent being established, would see a possibility of authorizing Señor Arturo M. Elias, in his personal character (if the matter is arranged through proper channels which I believe in this case would be the Department of State and this

Embassy) to accept an invitation to appear before the said Committee on the day and hour of the subpoena which he received, replying always in his personal character to questions which may be put to him, whenever these questions do not affect political matters concerning the Government of Mexico, since only this Embassy in my charge is qualified to treat of such matters.

I beg Your Excellency kindly to communicate to me at such time as may seem opportune if the above meets with your approval, for in that case I shall at once draw up the appropriate instructions to Señor Elias in order that he may be in Washington at the proper time and hour.

Accept [etc.]

MANUEL C. TÉLLEZ

817.00 H 35/25

Senator David A. Reed to the Secretary of State

WASHINGTON, December 14, 1927.

MY DEAR MR. SECRETARY: In view of the assurance by the Mexican Ambassador that he will instruct Mr. Arturo M. Elias, Mexican Consul General at New York, to attend and testify at tomorrow's meeting of the Special Committee appointed by the Senate to investigate allegations of money payments to certain Senators, and in view of the Mexican Ambassador's explicit assurance that Mr. Elias will accept the Committee's invitation so to appear, the Committee, of which I have the honor to be Chairman, authorizes me to quash and withdraw the subpoena and to substitute that by an invitation to Mr. Elias to appear at 10:00 o'clock tomorrow, Thursday, morning in the Minority Conference Room of the Senate Office Building in Washington.

You may be assured that every consideration will be given to the fact that Mr. Elias, although appearing in his personal capacity, is the accredited Consul General of the Mexican Government and that no attempt will be made by the Committee to secure from him any documents or information which can fairly be claimed to be entitled to immunity.

With cordial regards [etc.]

D. A. REED

817.00 H 35/20

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, December 16, 1927.

EXCELLENCY: I have the honor to refer to your courteous note of December 14, 1927, informing this Government of the willingness of your Government to cooperate in the investigation being conducted by a Special Committee of the Senate of the United States into cer-

tain documents, reproductions of which have been published in the *Washington Herald* and other papers, and outlining the circumstances in which your Government would find it possible to instruct the Mexican Consul General in New York to appear in a personal capacity before the Committee and give certain testimony. The cooperation of your Government in this matter is greatly appreciated and I am pleased to know from your telephone message on the afternoon of December 14, 1927, that appropriate instructions have been issued to Señor Elias.

While the arrangements which have thus been made with respect to the appearance of Señor Elias before the Committee make it unnecessary to consider further at this time the extent of the privileges and immunities enjoyed under general principles of international law by a foreign Consul General in the United States, I feel, nevertheless, that in order to avoid possible future misunderstanding I should, with all respect, record the fact that the views of the Government of the United States on the relevant questions of international law do not coincide with those expressed through you by the Government of Mexico, and that the position of my Government is, therefore, to be regarded as fully reserved.

Accept [etc.]

For the Secretary of State:

ROBERT E. OLDS

**PROTEST BY THE UNITED STATES AGAINST ARBITRARY MANNER OF
ARREST AND DEPORTATION OF JOSEPH DE COURCY FROM MEXICO**

412.11 C 8315/- : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, August 10, 1927—1 p. m.

[Received 8:55 p. m.]

307. Joseph de Courcy, American citizen and local correspondent of the *New York Times*, informed Embassy last night that he had been arrested by agents of Ministry of the Interior, no charges having been preferred. This morning he sent message to another American newspaper correspondent to the effect that he was to be deported this evening but did not give place of present detention.

Consulate general has made inquiries both at police headquarters and at local prison but has as yet been unable to locate De Courcy.

Embassy has taken matter up twice this morning with Foreign Office in view of the report that arrest was initiated by Department of Federal Government, but Foreign Office alleges that it has no information. I requested personal interview with Acting Minister of

Foreign Affairs who knows De Courcy and who has said he esteems him, but Estrada was unable to see me. Chief of Diplomatic Department has reminded Embassy however that Government can expel foreigners without giving cause.

Since writing foregoing Chief of Diplomatic Department has telephoned to say that member of Embassy may see De Courcy at police headquarters at 4 p. m. today. I shall send one of the secretaries and shall telegraph Department subsequently. Suggest that De Courcy's arrest be communicated to *New York Times*.

SCHOENFELD

412.11 C 8315/-: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, August 10, 1927—7 p. m.

[Received August 11—12:54 a. m.]

310. My 307, August 10, 1 p. m. Secretary of Embassy saw De Courcy this afternoon through repeated intervention of Foreign Office, police headquarters having previously insisted to Consul Lewis and to the Embassy that De Courcy was not there. Secretary Lane was able to see De Courcy only after much insistence, despite Foreign Office cooperation.

De Courcy stated he was apprehended about 9 o'clock last night by agent of Department of Gobernación and taken immediately to police headquarters where he was detained incommunicado without food or sleeping accommodations. Embassy was also to provide food this afternoon, despite advice of Foreign Office to the contrary. He stated he expected to be expelled tonight and his wife says that she has been similarly informed, though Foreign Office has vouchsafed no information.

Embassy has made oral protest to Foreign Office against arbitrary treatment suffered by this American citizen and pointed out that no information is available as to charges on which he is held contrary to informal understanding between Embassy and Foreign Office reached three years ago⁷⁷ and since frequently invoked without success.

In view of Embassy's despatch No. 3536 January 12 and No. 3858 March 25 last⁷⁸ I respectfully request instructions to deliver formal note protesting against holding of De Courcy without charges and incommunicado.

SCHOENFELD

⁷⁷ See telegram No. 318, Aug. 20, from the Chargé in Mexico, p. 258.

⁷⁸ Neither printed.

412.11 C 8315/-: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, August 11, 1927—10 a. m.

[Received 6:55 p. m.]

311. My 307 and 10 [310] of yesterday. De Courcy accompanied by his young son and two Government agents was put on train for Laredo which left Mexico City at 9 o'clock last evening. He was allowed to speak to his wife before departure, but no cause has yet been given for his arrest, detention, and expulsion. I have telegraphed consulate at Laredo to assist him in every proper way.

[Paraphrase.] Because of the arbitrary attitude of the Government of Mexico in detaining Mr. de Courcy incommunicado, respectfully suggest that the Department release to the press all essential facts as reported, since reports from American press correspondents will probably have been detained by Mexican censor. [End paraphrase.]

SCHOENFELD

412.11 C 8315/-: Telegram

The Acting Secretary of State to the Chargé in Mexico (Schoenfeld)

WASHINGTON, August 11, 1927—6 p. m.

181. Your 307, August 10, 1 p. m., and 310, August 10, 7 p. m. Department is informed through *New York Times* that De Courcy is now en route to this country.

The Department now desires you to present a formal note to the Acting Minister for Foreign Affairs reciting therein all the pertinent facts in the case. You will conclude the note in the sense of the following:

"In view of the arbitrary manner of Mr. de Courcy's arrest without any known charges having been made against him, and in view of the fact that he was held incommunicado without food or sleeping accommodations, I am instructed by my Government to make an emphatic protest against the harsh treatment accorded this American citizen and to point out that the failure of the Mexican authorities to inform the Embassy of the detention and of the charges on which he was detained and the pretensions of the Mexican authorities to have no knowledge of De Courcy's arrest even after the Embassy had learned thereof through other sources and had inquired of the Foreign Office, is in violation of the informal understanding between this Embassy and the Foreign Office reached about three years ago. I am further instructed by my Government urgently to request that instructions be issued to the competent authorities of Your Excellency's Government to the end that American citizens may in the future not be subjected to detention of this sort with no formal charge having been brought against them and that they may in all cases be permitted to com-

municate with this Embassy or the Consulate General; and further that the Embassy be notified of such cases in accordance with the existing understanding on the subject."

In presenting this note you may orally discuss with the Acting Minister for Foreign Affairs the provisions of Article Sixteen of the Mexican Constitution⁷⁹ as well as the informal understanding above mentioned and state that while the cooperation of the Foreign Office in this case is appreciated, the arbitrary action of other authorities of Mexico in this and other recent cases cannot but be regarded by the American Government as contrary to the practice of nations.

CASTLE

412.11 C 8315/-

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 4696

MEXICO, August 19, 1927.

[Received August 25.]

SIR: Referring to my telegram No. 317 of today,⁸⁰ relating to the expulsion from Mexico of Mr. Joseph de Courcy, correspondent of the *New York Times*, I have the honor to append herewith a translation from an article which appeared in *Excelsior* of this morning, giving a statement issued yesterday by the Foreign Office implying that the Embassy, in its representations regarding the harsh treatment accorded Mr. de Courcy, objected to the application of Article 33 of the Mexican Constitution:

"The Chargé d'Affaires of the United States did in fact formulate a representation in this matter, but, as it was a question of a political measure which is applied, not only in Mexico, but in the Republic to the North and in the other civilized nations of the world, the Ministry of Foreign Relations is not in a position to heed these representations.

"On the other hand, we constantly receive reports here regarding expulsions and deportations of Mexicans effected by the authorities of the United States, and naturally, for the same reason, our Embassy in Washington does not question the right of the American Government not to permit the residence in that country of undesirable aliens."

I have also the honor to transmit herewith a copy and translation of a note which I have received from the Foreign Office dated August 18th, substantiating the foregoing statement and asserting that the Government of Mexico could not recognize the protest of the Government of the United States.

I have [etc.]

H. F. ARTHUR SCHOENFELD

⁷⁹ *Foreign Relations*, 1917, pp. 951, 952.

⁸⁰ Not printed.

[Enclosure—Translation ⁸¹]

*The Mexican Acting Minister for Foreign Affairs (Estrada) to the
American Chargé (Schoenfeld)*

No. 13363

MEXICO, August 18, 1927.

MR. CHARGÉ D'AFFAIRES: I have the honor to refer to Note No. 2197 of August 12th,⁸² in which you inform me of certain details related to the detention of the American citizen Joseph de Courcy. You say that you have received telegraphic instructions from your Government to make an emphatic protest against what it calls the harsh treatment accorded De Courcy, and to point out that the failure of the Mexican authorities to inform the Embassy of the detention and of the charges on which the above-mentioned De Courcy was detained, and the "pretensions" of the Mexican authorities to have no knowledge of the arrest, despite the fact that the Embassy was already informed of what had occurred through other sources and had inquired at the Ministry for Foreign Relations, is in violation of the informal understanding reached three years ago between the Embassy and the Ministry for Foreign Relations. It is added that you have received urgent instructions from your Government to request the Government of Mexico to instruct the competent authorities to the end that in the future American citizens may not be subjected to detention of this sort without a formal charge having been brought against them, and that they may in all cases be permitted to communicate with their Embassy or with the Consulate General, and, further, that the Embassy be notified of such cases in accordance with the understanding which you say exists on the subject.

In reply, I have the honor to inform you that the expulsion of pernicious or undesirable aliens, as is universally known, is a simple matter of public order which governments have the exclusive right to exercise, as does your Government, and that I am not aware of the terms of the informal understanding to which your note refers, therefore, the Government of Mexico cannot recognize the protest of the United States; that I do not yet desire to refer to similar cases which have occurred between American authorities and Mexican citizens, but only to call your attention, at the present time, to the fact that our Embassy in Washington, respecting the sovereignty of that country, does not present claims in such cases, even though many of them might justly be the basis for a representation; and that in order to govern whatever decisions my Government may reach, I request you to inform me whether the Government of the

⁸¹ File translation revised.

⁸² Presented by the Chargé in accordance with the Department's telegram No. 181, Aug. 11, p. 255.

United States of America is disposed to treat with or previously to notify our Embassy in Washington regarding cases of expulsion or deportation of Mexican citizens, pernicious or undesirable, from its territory.

I avail myself [etc.]

G. ESTRADA

412.11 C 8315/- : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, August 20, 1927—1 p. m.

[Received 4:31 p. m.]

318. My 317, August 19, 5 p. m., regarding expulsion of De Courcy.⁸⁸ According to memorandum in the Embassy files dated June 28, 1924, the then Minister of Foreign Affairs, Aaron Sáenz, sent Chief of Diplomatic Department Aspe to inform Ambassador Warren, pursuant to Mr. Warren's request of Señor Sáenz, that the Foreign Office was willing, prior to the expulsion of any American citizens under article 33 of the Mexican Constitution, to make available to a secretary of this Embassy, whom the Ambassador might designate for the purpose, the original documents in the case in order that the secretary might examine them.

SCHOENFELD

412.11 C 8315/-

The Secretary of State to the Chargé in Mexico (Schoenfeld)

No. 1446

WASHINGTON, September 15, 1927.

SIR: The Department acknowledges the receipt of your despatch No. 4696, of August 19, 1927, transmitting the text and translation of a note dated August 18, from the Mexican Foreign Office, in relation to the recent expulsion from Mexico of Mr. Joseph de Courcy, an American citizen.

In reply, you are informed that a translation of the pertinent portion of the Mexican note was forwarded to the Department of Labor under date of August 29, with a request for a statement as to the procedure followed by that Department in deporting aliens from this country. The Department is now in receipt of a reply dated September 7, 1927,⁸⁹ stating that in conducting proceedings in connection with aliens arrested in the United States with a view to deportation, provision is made for the presentation, in each case, of specific charges and for representation by counsel when such representation is requested; that

⁸⁸ Not printed.

the rule governing representation by counsel is, in actual practice, made to include the right to be represented by any one the accused may select; and that facilities are, at all times, afforded aliens under arrest under deportation proceedings to communicate also with friends and relatives. Furthermore, aliens involved in such cases are never held without food or sleeping accommodations, or denied the privilege to communicate with a consular officer of their Government if a request therefor is made.

I may add, in this connection, that the Government of the United States deports aliens only after a hearing, and never deports such aliens except for a violation of a statute of the United States which has been publicly proclaimed.

You are instructed to reply to the Mexican note and to inform the Mexican Foreign Office that this Government has not questioned nor does it now question the Mexican Government's right, within certain limitations defined and recognized by international law, to expel pernicious or undesirable aliens from its territory. You will add that it is the conviction of your Government, however, that the harsh treatment accorded Mr. de Courcy while he was under detention, against which treatment your Government feels constrained again to make an emphatic protest, and the arbitrary manner in which his forced removal from Mexico was effected, without a hearing, without any known charges having been made against him, and without regard to his convenience and his personal and property interests constitute a violation of his rights as a foreigner domiciled in Mexico.

In response to the inquiry contained in the latter part of the final paragraph of the Mexican note, the Department desires you to advise the Foreign Office of the practice followed by this Government, as above set forth, in the conduct of analogous cases, and to say that your Government sincerely hopes that equally humane treatment will be accorded American citizens by the appropriate Mexican authorities in charge of such expulsion or deportation cases affecting American citizens as may hereafter arise. With this end in view, you will request that the appropriate authorities be given proper and timely instructions covering the matter, in order that American citizens who may in the future be subjected to expulsion proceedings in Mexico shall be informed of the charges against them when such information is requested, be given opportunity to be heard, be afforded food and proper sleeping accommodations, and be given opportunity to communicate with the Embassy or the Consulate General during the period of their detention.

In conclusion you may add that, in view of the manner in which such proceedings are conducted by this Government, there can be

no need for this Government's notifying the Mexican Embassy in Washington regarding expulsion or deportation cases involving Mexican citizens, since all pertinent information respecting such cases may readily be conveyed to the nearest Mexican consular officer by the accused or their counsel.⁸⁵

I am [etc.]

FRANK B. KELLOGG

GOOD OFFICES OF THE DEPARTMENT OF STATE TO PROCURE FOR HOWARD T. OLIVER AN OPPORTUNITY TO EFFECT AN ADJUSTMENT OF HIS CLAIM AGAINST MEXICO⁸⁶

312.115 O1 41/15a : Telegram

The Secretary of State to the Ambassador in Mexico (Sheffield)

[Paraphrase]

WASHINGTON, February 12, 1927—7 p. m.

31. Referring to previous correspondence in the case of Howard T. Oliver and the Oliver Trading Company, the Department desires you, if you perceive no objection, to present in person to the Foreign Minister as soon as possible an *aide-mémoire* in the following terms:⁸⁷

"On October 25, 1922, during the period when the régime functioning in Mexico was not recognized as a government by the Government of the United States, the Mexican Embassy at Washington addressed a communication to the Department of State⁸⁸ requesting the latter to take appropriate steps to bring about the discontinuance of proceedings instituted in the courts of the State of New York against Mexico by the Oliver Trading Company, an American corporation, in connection with which proceedings the property in New York of the Mexican Consulate General and Financial Agency and of the International Railways of Mexico had been subjected to attachment.

In the interest of international comity the Department of State acceded to the request of the Mexican Embassy and asked the appropriate authorities of the State of New York to consider whether the official property of the Consulate General might not promptly be released from the attachment in question. The Department's representations were successful and in a communication dated November 1, 1922, the Mexican Embassy at Washington was informally advised that the attachment of the property of the Consulate had been vacated.⁸⁹

⁸⁵ In despatch No. 4901, Sept. 22, 1927, the Embassy reported that in accordance with the above instruction it had that day addressed a note to the Mexican Foreign Office (file No. 412.11 C 8315/8).

⁸⁶ For previous correspondence regarding this claim, see *Foreign Relations*, 1923, vol. II, pp. 574 ff.

⁸⁷ *Aide-mémoire* not paraphrased.

⁸⁸ Not printed; but see the Department's letter of Oct. 27, 1922, to the Governor of the State of New York, *Foreign Relations*, 1922, vol. II, p. 709.

⁸⁹ Not printed.

The proceedings instituted in the State courts were subsequently removed to the Federal courts, and the Department of State, still mindful of the request of the Mexican Embassy, took steps to have the following statement made before the court when the case came up for hearing on motion:

'The Government of the United States has at present no official relations with the administration now functioning in Mexico. This fact, however, does not affect the recognition of the Mexican State itself, which for years has been recognized by the United States as an "international person" as that term is understood in international practice. The existing situation simply is that there is no official intercourse between the two States.'

The case was not decided by the Federal District Court until the fall of 1923 after the Government of the United States had recognized the Government of Mexico. The court then dismissed the action on the ground that the Government of Mexico as the Government of a sovereign State was entitled to immunity from suit in the courts of the United States. The case was then appealed to and dismissed by the Circuit Court of Appeals, and a petition was then filed with the Supreme Court of the United States for a writ of certiorari.

On January 31, 1925, the Mexican Embassy again brought the matter to the attention of the Department,⁹⁰ stating that the petition for a writ of certiorari was to be submitted to the court on February 2, and asking the Department to intervene to the extent of requesting the Attorney General to make a statement to the court. In accordance with this request the Department suggested to the Attorney General that an appropriate statement be made to the court by a representative of the Department of Justice as a matter of comity between the Government of the United States and the Government of Mexico. Such a statement was made in the form of a suggestion and the petition for a writ of certiorari was denied.

While the Department of State was happy in the interests of international comity to take the action outlined above on behalf of Mexico, it naturally assumed that such action would be without prejudice to the rights of the Oliver Trading Company or of Mr. Oliver, the sole stockholder thereof, and that the company or Mr. Oliver would be free to pursue an appropriate remedy either in the courts of Mexico or through direct negotiation with the Executive Department of the Mexican Government. Accordingly the litigation brought in the courts of the United States against the Government of Mexico having been determined by the refusal of the Supreme Court of the United States to issue a writ of certiorari, the Department instructed the American Chargé at Mexico City to bring to the attention of the appropriate authorities of the Mexican Government the fact that there appeared still to be outstanding against Mr. Oliver an expulsion order issued by the Mexican Government in October, 1922, when the litigation was pending, and to ascertain whether in the existing circumstances the order might not be revoked so that Mr. Oliver could proceed to Mexico and discuss his business affairs directly with the interested Mexican authorities. The Department suggested as an alternative to the revocation of the order of expulsion the designation by the Mexican Government of a representative in

⁹⁰ Memorandum not printed.

the United States with whom Mr. Oliver might take up his case. In this connection it might be added that the expulsion decree appears to have been signed by President Obregon on October 30, 1922, under the provisions of Article 33 of the Mexican Constitution which clothes the Executive with the 'exclusive right to expel from the Republic forthwith, and without judicial process, any foreigner whose presence he may deem inexpedient.' It also appears to have been issued because Mr. Oliver had instituted legal proceedings in the courts of New York for the purpose of obtaining an adjudication of his case against Mexico. To the Department's surprise the foregoing suggestions when brought to the attention of the Mexican Foreign Office resulted in not only a refusal to withdraw the order of expulsion, but a refusal to designate any representative of the Mexican Government with whom Mr. Oliver might negotiate in the United States. The Department brought the matter again to the attention of the Mexican Government and was again met with a refusal to revoke the order of expulsion, and a refusal to designate a special representative with whom Mr. Oliver might confer in the United States. The Foreign Office suggested informally, however, that Mr. Oliver might treat with the official representative of Mexico in the United States or designate a representative to deal on his behalf with the Mexican Government in Mexico City. This information was communicated to Mr. Oliver who forthwith addressed a letter to the Mexican Ambassador at Washington inquiring with what official he should open negotiations looking toward a settlement of his affairs with the National Railways of Mexico (Government Administration). To this communication the Ambassador replied that any right of action should be exercised in Mexico before the competent courts.

As matters now stand Mr. Oliver cannot have his case tried on its merits before the courts of the United States, he cannot appear in person in connection with any litigation instituted in the courts of Mexico by reason of the expulsion order still in force, he cannot negotiate with a special representative of the Government of Mexico in the United States because the Mexican Government declines to designate such a representative, and he cannot negotiate with the diplomatic representatives of the Government of Mexico in the United States because when approached the latter refer him to the Mexican courts.

The Department of State does not desire to pass upon the merits of the controversy. It believes, however, that under the present conditions Mr. Oliver is suffering from an injustice which deprives him of a proper hearing and which, in the circumstances the Mexican Government should be the first to desire to correct. The Department ventures, therefore, to express the hope that the case of the Oliver Trading Company may be considered by the Mexican Government with a view to arriving at some adjustment of the case."

When you present *aide-mémoire* to Foreign Minister please support same with your oral representations in same sense; also request Foreign Minister to inform you of his decision as soon as possible. Cable Department a summary of interview with Foreign Minister.

KELLOGG

812.115 Ol 41/21

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 3775

MEXICO, March 4, 1927.

[Received March 10.]

SIR: Referring to my telegram No. 82 [83], 4 p. m., of today,⁶¹ I have the honor to transmit herewith a copy and translation of the memorandum received today from the Mexican Foreign Office with respect to the case of the Oliver Trading Company.

I have [etc.]

JAMES R. SHEFFIELD

[Enclosure—Translation ⁶²]*The Mexican Foreign Office to the American Embassy*

No. 4231

MEMORANDUM

In the courteous memorandum of the Embassy of the United States, dated February 15th,⁶³ it is stated that on account of the claim presented in October, 1922, before the courts of New York against the Government of Mexico by the American Company styled "the Oliver American Trading Company", which gave rise to the attachment of the properties in New York of the Consulate General, the Financial Agency, and the National Railways of Mexico, the Government of the United States, at the request of the Government of Mexico through its Embassy in Washington, used its good offices with the appropriate authorities that, as an act of international comity, the attachment might be vacated, and that this attitude, sustained during the various judicial proceedings, was of prime influence in the suit being settled in a manner definitely in favor of the Government of Mexico;

That, in view of the order of expulsion issued by the Mexican Government against Mr. Oliver, sole owner of the Oliver American Trading Company, he was deprived of the necessary means of defense, in spite of the fact that the American Government requested, without obtaining a favorable result, that said order be revoked;

That, when the informal suggestion of the Department of Foreign Relations was communicated to Mr. Oliver, that he might be able to treat with the representative of the Government of Mexico in the United States, either a resident of that place or one especially appointed for that purpose, Mr. Oliver, upon asking our Embassy in Washington for the name of the person designated, received the reply that his action should be exercised before the competent courts;

⁶¹ Not printed.⁶² File translation revised.⁶³ See Department's telegram No. 31, Feb. 12, to the Ambassador in Mexico, p. 260.

That, in view of the foregoing, the present status of the matter for the Embassy of the United States is as follows:

That Mr. Oliver can not have his case tried on its merits before the courts of the United States;

That he can not appear in person in connection with any litigation instituted in the courts of Mexico;

That he can not negotiate with a special representative of the Mexican Government in the United States:

That he can not negotiate with the diplomatic representatives of the Government of Mexico in the United States.

Under these circumstances the Department of State, without passing on the justice or merits of the controversy, believes that under present conditions Mr. Oliver is the victim of an injustice which deprives him of a personal hearing of his case, and expresses its hope that the Mexican Government may take into consideration the case of "the Oliver American Trading Company" with a view to arriving at some adjustment thereof.

The Department of Foreign Relations after having noted the contents of the memorandum of the Embassy of the United States and having examined the antecedents of the case, states that, with due appreciation of the attitude assumed by the Government of the United States during the various judicial proceedings instituted by "the Oliver American Trading Company", with the known satisfactory result, does not cease to remember, and confirms the protest then presented to the Department of State, based upon the error of the decision of Judge Rokland⁹⁴ of New York in the light of recognized principles of international law, that a Government can not be brought into a legal action except before its own courts, and of the immunities which the same law grants to the properties of a government located within the territory of a foreign State.

On the 1st of March, 1920, the American company, "the Oliver American Trading Company", represented by Mr. Howard T. Oliver, signed a contract with the management of the National Railways of Mexico which permitted it the use of a special service of local engines and foreign freight-cars for hauling its freight. It was stipulated that the contract was for a term ending December 31, 1920. This contract was later extended to June 30, 1921, it being established in the extension that the contract would remain in effect "until further notice".

As the said contract was contrary to article 92 of the railroad law, and as Mr. Oliver had not complied with the essential obligations stipulated therein, to the detriment of the interests of the railways and of the public, he was given notice that the agreement

⁹⁴ I. e., Judge of Rockland County.

was null, a decision which he did not want to accept, on grounds too numerous to mention.

The management of the National Railways, demonstrating a conciliatory spirit, informed Mr. Oliver that it was willing to enter upon negotiations; but this proposition was rejected by him in offensive terms. The Board of Directors of the railways, in view of the attitude assumed by Mr. Oliver, and wishing to bring the matter to a conclusion, placed the facts before the Attorney General, who, through the Department of Justice and in representation of the Mexican Government and of the National Railways administered by it, brought civil suit against the Oliver American Trading Company, based upon the contract signed in 1920 and demanded the pecuniary adjustment of the case. The Oliver American Trading Company was notified through its representative, Mr. Oliver, of the above-mentioned suit on September 9, 1921, and not only was notice of said suit served personally on Mr. Oliver, but he also presented a demurrer on the 12th of the said month and year, stated that notices could be sent to Rooms 505-511, Edificio de la Mutua, Avenida 5 de Mayo número 2, and authorized his attorney to receive subsequent notices, according to the records of the proceedings of the case.

On the 15th of September, 1921, this same Oliver continued to deal personally with the lawsuit under reference, for on that day he presented and was granted an appeal against two writs issued by the Third Supernumerary District Court.

Later, on October 22, 1921, Oliver gave as his address for the receiving of notices, in place of the address previously indicated, casa número 13 de la 1/a calle de San Juan de Latrán of this capital, where said notices were thenceforth served.

Lastly, it is also shown that Oliver also personally intervened in the attachment of furniture which the Agent of the Department of Justice issued as a precautionary measure.

The foregoing, all based upon legal acts, shows that Mr. Oliver applied to the Mexican courts for the decision of the matter he had pending with the National Railways, not only taking personal part in the suit and bringing various writs of appeal in his own defense, but also naming his representative and his domicile, in accordance with requirements of article 1069 of the Commercial Code; and, as the notice of suit was served personally upon the defendant, he agreed, according to the provisions of articles 932 and 933 of the Code of Civil Proceedings, to continue the case before the judge who summoned him.

Therefore, Mr. Oliver had recourse to the Mexican laws and courts, being heard and having legal defenses at his disposal, since he had refused to negotiate with the railways with respect to the contract.

This being the case, Mr. Oliver removed to the United States, abandoning of his own free will the lawsuit under reference, the regular proceedings of which continued as indicated by the Mexican laws; and in place of continuing to handle his affairs in Mexico, he brought suit towards the end of October, 1922, in New York, against the Mexican Government for the same cause, which had already been placed before the Mexican courts (whose jurisdiction, I repeat, Mr. Oliver had accepted), attempting with said lawsuit to produce special consequences, and launching, moreover, a campaign of defamation and discredit against Mexico; supervening facts which, in accordance with the relative legal provisions, caused the order for his expulsion to be issued because his residence in Mexico was considered undesirable.

The foregoing unquestionably demonstrates that the rigorous and perfectly justifiable attitude which the Mexican Government assumed against Oliver was not for the purpose of depriving him of the necessary means of defense, for he made opportune preparations and could always name a legal proxy who would, in his name, continue the suit begun by the railways, or exercise the legal rights to which he might be considered entitled and defend himself in the suit brought against him. Therefore, the qualifying word *injustice*, applied to the expulsion of Mr. Oliver, must be attributed only to a deficient knowledge of the circumstances surrounding this case.

The Ministry of Foreign Affairs takes the liberty likewise to correct the statement that there has existed a suggestion on its part, official or unofficial, to appoint a representative who should come to an agreement with Oliver in the United States; for, aside from the fact that this Ministry is sure that such a suggestion was not made in any form whatever, it seems unusual that a Government should name an official representative who should go abroad to deal with an individual over a private matter—a matter, moreover, which was already before the Mexican courts and amenable to their decision.

In spite of all that has been stated above, the President of the Republic, not wishing in any case to be accused of committing an arbitrary act, has granted permission for Mr. Oliver to come to Mexico for the duration of a period which may be reasonably judged necessary for the exercise of the rights to which he may consider himself entitled with regard to the affairs of the company which he represents.

For this purpose, the necessary orders have been issued so that the competent authorities may permit the entrance into the country of Mr. Oliver, under the conditions indicated.

MEXICO, *March 4, 1927.*

MEXICO

312.115 OI 41/21 : Telegram

The Secretary of State to the Ambassador in Mexico (Sheffield)

WASHINGTON, April 7, 1927—3 p. m.

84. Your despatch 3775, March 4, 1927. The Department has discussed with Mr. Oliver and his attorneys the response made by the Mexican Government to your *aide memoire* of February 15 regarding the Oliver case, and has received from them further information which it believes might advantageously be discussed with the Mexican authorities. You are therefore authorized at your earliest convenience orally to discuss this case again at the Foreign Office along the following lines provided you see no objection:

1. Point out that this Government is gratified that the President of Mexico in suspending the operation of the decree of expulsion against Mr. Oliver has given such unmistakable evidence of the desire of the Mexican Government to remove the obstacles which have been depriving Mr. Oliver of an opportunity to arrive at an adjustment of his case.

2. State that this Government does not desire to pass upon or discuss the merits of Mr. Oliver's case, or to become involved in a discussion of the litigation in 1921 in the Mexican courts, but, as stated in your memorandum of February 15, 1927, is interested in having this case adjusted.

3. Refer again to the helpful and sympathetic reception which the Department afforded to the requests of the Mexican authorities during the pendency of the litigation in the courts in the United States, and outlined in your *aide memoire* of February 15.

4. Point out that helpful as the action of the President has been in suspending the expulsion decree, it does not completely meet the situation. State that according to the information which has been furnished to the Department by Mr. Oliver it appears that the Mexican authorities through their attorneys in New York engaged in negotiations with Mr. Oliver in 1922 and 1923 looking to the friendly settlement of the case of the Oliver American Trading Company, and that a proposed plan of settlement was approved by the President of Mexico and communicated by Mr. Pesqueira to Mr. Felix, the Financial Agent of Mexico in New York, in a telegram dated December 22, 1922. A copy of this telegram was given by the attorneys for the Mexican authorities to the attorneys for Mr. Oliver, and was taken by the latter to constitute a clear indication of the desire of the Mexican authorities to settle the case. A copy of this telegram and an affidavit by a member of the firm of attorneys who represented Mr. Oliver in these negotiations have been submitted to the Department.⁹⁵ From this evidence it appears that the arrange-

⁹⁵ Affidavit not printed.

ment consisted of two parts, first, an agreement that that portion of the Oliver Trading Company's claim which was susceptible of exact proof (amounting to about \$700,000) was admitted by the Mexican authorities and would be paid without further question upon submission of the necessary vouchers, and second, that the remainder of the claim (amounting to about \$350,000) which was composed of unliquidated items for damages sustained from loss of future business, loss of good will, et cetera, would be submitted to arbitration. Although the Department understands that this arrangement was effected by duly authorized representatives of the Mexican Government, namely, Messrs. Hardin and Hess, and was relied on by Mr. Oliver's attorneys in consenting to the extension of time requested by the Mexican authorities, its provisions have never been carried out.

5. Point out that in view of these negotiations which took place after the litigation in the Mexican courts in 1921, to which the Foreign Office memorandum referred, and in view of the statement contained in the telegram of December 22, 1922, to the effect that the Mexican authorities "must endeavor to arrive at a reasonable settlement with the Oliver Company in order to prove not only the good faith and just attitude of our Government with regard to this claim which has indisputable grounds, but also to take advantage of the settlement for the establishment of a precedent in the courts," the Mexican Government might be disposed to waive technical considerations and authorize its attorneys or financial agent in New York to take the matter up with the attorneys for the Oliver American Trading Company at the point where it was left in 1923. You may state that such action would undoubtedly facilitate the settlement of the question on its merits and would be welcomed by the Government of the United States as further evidence of the desire of the Government of Mexico to see that justice and equity are done to Mr. Oliver and the Oliver American Trading Company.

6. You should make it clear that the Government of the United States, while not passing upon the merits of Mr. Oliver's claim or espousing it as a diplomatic claim, is bringing it to the attention of the Mexican authorities in this informal and friendly way because it appears to be a case calling for consideration by the Government of Mexico in some appropriate manner.

7. For your information and such use as may seem appropriate the Department quotes below the text of a translation of the telegram of December 22, 1922, from Pesqueira to Felix referred to above:

"The President has resolved that Roberto V. Pesqueira take charge of the Oliver case according to the following memorandum approved by him: 'The claim of the Oliver Trading Company is at present in the Federal Court of the United States of America. The plan the gov-

ernment proposes to carry must take place before the sixth of January and accordingly it is necessary to act immediately for on this date a judgment will be entered by default unless some definite course of action is previously decided and approved upon. The Oliver Trading Company and its lawyers have shown their desire to enter into negotiations with a view to effect a settlement, provided the negotiations are started upon a reasonable basis. They wish that assurances be given to them that the attitude of the Government will be to discuss the subject in good faith so as to settle the claim of the Oliver Trading Company and that it is not our purpose to enter into discussions with the sole view of gaining time. My opinion is that we must endeavor to arrive at a reasonable settlement with the Oliver Company in order to prove not only the good faith and just attitude of our Government with regard to this claim which has indisputable grounds, but also to take advantage of the settlement for the establishment of a precedent in the Courts. A precedent of this nature would be of great help in all future litigations that might arise. Therefore I propose the following method: That I represent the Government. The Oliver to name a good meaning representative as for example General Ryan who already has expressed his willingness to accept. The arbiters will carefully study the disputed points under the advice of their lawyers and will endeavor by amicable discussion to find a just basis of settlement. Once this basis has been determined the matter will remain pending until the suit of the Oliver Trading has been taken to the Federal Court and a favorable sentence has been entered on the protest made by the Government through the Department of State. We propose to obtain a verdict whereby the court declares itself incompetent to try a suit against the United Mexican States. This naturally would be of great advantage to us inasmuch as otherwise it would be very difficult for us to obtain a precedent of this nature with the promptness this one affords. Such precedent would also tend to prevent the presentation of other claims by persons who may have intentions to try alleged claims before the courts.' Please communicate with Messrs. Harding and Hess."

KELLOGG

312.115 O1 41/26

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 4045

Mexico, May 3, 1927.

[Received May 9.]

SIR: Referring to my despatch No. 3957 of April 12, 1927,⁸⁸ reporting the representations I made on that date to the Minister of Foreign Affairs with regard to the case of the Oliver-American Trading Company, I have the honor herewith to enclose for the Department's information copy with translation of a memorandum dated April 29, last, which I have received from the Foreign Office with reference to the *aide memoire* left with the Minister of Foreign Affairs on April 12.

I have [etc.]

JAMES R. SHEFFIELD

⁸⁸ Not printed.

[Enclosure—Translation ^{or}]*The Mexican Foreign Office to the American Embassy*

No. 7144

The Department of Foreign Relations refers to the courteous memorandum of the Embassy of the United States of America, No. 1899, of the 12th instant, wherein, in the case of Mr. Oliver, the American Government recognizes as an unmistakable evidence of the desire of the Mexican Government to give to Mr. Oliver an opportunity to settle his case the fact that it suspended the effects of the decree of expulsion against him; but, it states, that notwithstanding this helpful action of the President of the Republic in suspending the effects of the said decree, this, in its opinion, does not completely meet the situation since, according to information furnished to the Department of State by Mr. Oliver, it appears that the Mexican authorities, through their attorneys, engaged in negotiations with Mr. Oliver in 1922 and 1923 for a friendly settlement of his case.

According to the memorandum mentioned, the said proposed plan of settlement was approved by the President of the Republic and communicated by Señor Pesqueira to Señor Félix, the Financial Agent of Mexico in New York in a telegram dated December 22, 1922, and a copy of the text of that message, as well as of the affidavit of a member of the firm of attorneys who represented Mr. Oliver were submitted to the Department of State.

It is added, that in view of these negotiations, subsequent to the litigation before the Mexican authorities in 1921, the Embassy of the United States of America believes that the Mexican Government would be disposed, perhaps, to disregard technical considerations and to authorize its attorneys or the Financial Agent to take up the matter with the attorneys of Mr. Oliver, it being added, finally, that although the Government of the United States does not pass upon the merits of the Oliver claim and does not espouse it as a diplomatic claim, it presents it to the consideration of the Mexican Government in an informal and friendly way, because it appears to be a case deserving appropriate attention.

The Department of Foreign Relations has duly noted the contents of the said memorandum No. 1899 of the 12th instant and has the honor to state that the President of the Republic agreed to order the suspension of the expulsion of Mr. Oliver precisely for the purpose of aiding him in settling his affairs in Mexico, taking into account the spirit of friendship in which the representation was made and the statement of the Embassy of the United States, now repeated, not to pass upon the merits of the case.

^{or} File translation revised.

Regarding the possibility of a direct settlement between Mr. Oliver and the Mexican Government, the Department of Foreign Affairs thinks that as there is in question a controversy regarding compliance with obligations and the exercise of rights of a purely civil character, the settlement thereof should be entrusted to the Mexican courts which, moreover, have already intervened in one aspect of the question and recently handed down a decision with all its legal effects.

As for the antecedents which it is sought to adduce as a basis for the direct settlement of this matter between Oliver and the Mexican Government, the Department of Foreign Relations hastens to declare that Señor Pesqueira, in relation to this case, was not commissioned either officially or unofficially to settle it, as it was still pending settlement in the American courts at the time to which the copy of the telegram refers, and, therefore, his acts have no binding force whatever for the Mexican Government.

It seems useless, moreover, to pass on the probative value of an affidavit of Oliver's attorneys, who, in his name, and at his expense, intervened in the said case.

The Department of Foreign Relations has the honor again to recommend to the Embassy of the United States the expediency of reminding Mr. Oliver that the Mexican courts are qualified to take cognizance of his case in conformity with the applicable legal precepts, and that for this purpose he will enjoy the guarantees and facilities granted by our laws.⁸⁸

MEXICO, *April 29, 1927.*

⁸⁸ On December 23, 1927, the Department was informed by Mr. Oliver that he was leaving for Mexico City. (File No. 312.115 Ol 41/33b.)

In despatch No. 313, Jan. 31, 1928 (file No. 312.115 Ol 41/36), the Ambassador in Mexico reported that upon Mr. Oliver's arrival in Mexico, the Embassy, in accordance with telegraphic instruction No. 273, Nov. 25, 1927 (file No. 312.115 Ol 41/29), lent its good offices "in bringing Mr. Oliver and the Mexican Government together to discuss and if possible settle the controversy." Mr. Oliver, however, failed to secure a settlement of his claim.

None of the above-mentioned communications is printed.

MOROCCO

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED AMERICAN RECOGNITION OF THE SPANISH ZONE IN MOROCCO¹

881.00/1345

*The Assistant Secretary of State (Castle) to the Chief of the Division
of Western European Affairs (Marriner)*

[WASHINGTON,] June 2, 1927.

MR. MARRINER: The Spanish Ambassador took up with me today the question of taxes in the Spanish Zone and possible American recognition of the Zone which would include giving up capitulations. He spoke of a note from the Department of December 11, 1924,² in which we said the matter was being given serious consideration, but that serious consideration had not been followed up. He said he hoped very much before he leaves on June 23rd we might be able to write a note saying just what we would be willing to do in this matter of recognition. He said he understood it was closely related to the question of claims, but that he would like to have something definite to say to his Government when he gets back to Spain. This is a matter which I hope can be carried through.

W. R. C[ASTLE,] Jr.

452.11/198

The Spanish Chargé (Amoedo) to the Secretary of State

[Translation]

No. 72-11

WASHINGTON, July 26, 1927.

MR. SECRETARY: Your Excellency will no doubt remember that during the course of the visit which the Ambassador of his Catholic Majesty at Washington had the honor to pay you on the 20th of May of this year the question was discussed of the possibility that the United States Government would accede to the legitimate demands of Spain, not only with regard to the levying of certain taxes on American subjects and proteges residing in the Zone of the Spanish

¹ For correspondence previously printed regarding recognition of the Spanish zone in Morocco, see *Foreign Relations*, 1917, pp. 1095-1096; *ibid.*, 1923, vol. II, pp. 585-596; and *ibid.*, 1926, vol. II, pp. 716 ff.

² Not printed.

MOROCCO

protectorate in Morocco, but would accede also to the official recognition of our protectorate in Morocco by the United States Government, and Your Excellency having said that the first step necessary was that His Majesty's Government should settle certain claims of American citizens and proteges connected with Spanish Morocco, I have the honor to inform Your Excellency that His Majesty's Government is ready to study in the spirit of the broadest good will the claims above mentioned. Wherefore it wishes that they be stated anew and in a concrete manner, together with the latest views of the Government of the United States, so that it may study them and arrive at an early decision in the matter.

I avail myself [etc.]

MARIANO AMOEDO

452.11/198

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 438

WASHINGTON, October 18, 1927.

SIR: On July 26, 1927, the Spanish Embassy by formal note raised the question of American recognition of the Spanish protectorate in Morocco.

Hitherto American recognition has been withheld pending an equitable settlement of American claims arising in the Spanish zone and the restoration of law and order in that zone.

The question of American claims was discussed in your despatch No. 246 [256] of November 22, 1921,³ and in your telegram of August 18, 1926, 3 p. m.⁴ However, in order that the Department may be in a position adequately to discuss the question of American claims in the Spanish zone it is desired that you submit a résumé of all such claims up to date with such recommendations as to the procedure to be followed in their examination as you may deem appropriate.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

452.11/198

The Secretary of State to the Spanish Ambassador (Padilla)

WASHINGTON, November 7, 1927.

EXCELLENCY: I have the honor to refer to the Note of your Embassy dated July 26 regarding the question of official recognition on the part of this Government of the Spanish Protectorate in that part of Morocco commonly known as the Spanish Zone, and I take pleasure in repeating

³ Not printed.

⁴ *Foreign Relations*, 1926, vol. II, p. 729.

to you previous assurances to the effect that this Government will be glad to give prompt and sympathetic consideration to this matter as soon as a satisfactory settlement of the outstanding claims of American citizens and proteges in cases arising in connection with the Spanish Zone has been agreed upon.

The claims in question are on file with the American Diplomatic Agency at Tangier which was instructed some time ago to submit a complete and up-to-date list thereon, a copy of which will be transmitted to you as soon as the Agency's report has been received.

I have not failed to note the suggestion of Mr. Amoedo of your Embassy that these claims be examined by an American-Spanish Commission sitting in Madrid, but I am inclined to the belief that they could be more effectively and satisfactorily dealt with in Tangier by a Commission consisting of the Spanish Consul General in Tangier and the American Diplomatic Agent. In this connection I may point out that an analogous procedure was followed in our negotiations with France on a similar subject, and that its results were found to be eminently satisfactory to both Governments.

Should your Government find this proposal as to procedure acceptable, I shall be glad to authorize the American Diplomatic Agent in Tangier to proceed to examine the claims in question with the Spanish Consul General at Tangier, and to sign a joint report of findings and recommendations to be submitted to the respective Governments for their consideration. I may add that I am confident that such a report would afford a suitable basis for the adjustment of the matter in a manner satisfactory to both our Governments.

Accept [etc.]

FRANK B. KELLOGG

452.11/198 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

WASHINGTON, November 7, 1927—2 p. m.

9. Department mail instruction 438, October 18. Please expedite.

The Department has suggested to the Spanish Embassy here that the claims be examined by a Commission consisting of you and the Spanish Consul General at Tangier and that you draw up a joint report of findings and recommendations to be submitted to the two Governments. Upon receipt of a reply from the Spanish Embassy telegraphic instructions will be addressed to you.

KELLOGG

NETHERLANDS

PROPOSAL TO ALLOCATE TO THE NETHERLANDS GOVERNMENT THE FORMER GERMAN YAP-MENADO CABLE¹

8621.73/80

*The Netherlands Chargé (Van Asch van Wyck) to the Secretary
of State*

[Translation]

No. 367

WASHINGTON, February 5, 1927.

MR. SECRETARY OF STATE: By order of my Government I have the honor to address Your Excellency in the following matter.

As is known to the Government of the United States, Germany, under Article 244 and Annex VII of Part VIII of the Treaty of Peace of Versailles of June 28, 1919,² renounced in its name and in the name of its nationals, for the benefit of the Principal Allied and Associated Powers, all rights, titles and privileges of all kinds held by it on various cables or parts of submarine cables.

Among those cables enumerated in the above mentioned Annex were those of the Germano-Netherlands Telegraph Company, called the "Deutsch-Niederlandische Telegraphengesellschaft A. G", namely the Yap-Shanghai, Yap-Guam and Yap-Menado cables.

The Queen's Government as early as 1919 took unreservedly the ground that with respect to the three above mentioned cables the Dutch interests represented in the above named Company should be taken into consideration.

Indeed, as has already been stated (both in the Peace Conference and the Reparations Commission and also at the Conference at Washington of 1921) the organization of the "Deutsch-Niederlandische Telegraphengesellschaft" (to which Netherlands subjects belonged as stock and bondholders) and the laying of the three above mentioned cables are based on the Germano-Netherlands Treaty of July 24, 1901.³ Under that Treaty the rights to the cables enjoyed by the Company were restricted by the joint supervision of the Dutch and German Governments to which the management of the Company was subjected.

After the Queen's Government had, on repeated occasions, caused steps to be taken in this case, there was prepared towards the end of

¹ Continued from *Foreign Relations*, 1926, vol. II, pp. 762-779.

² Malloy, *Treaties*, 1910-1923, vol. III, p. 3329, 3423, 3438.

³ *British and Foreign State Papers*, vol. xciv, p. 595.

1921, during the Washington Conference,⁴ by the representatives of the Governments of the United States of America, Great Britain, France, Japan, Italy and the Netherlands, an arrangement for the allotment under certain conditions of the Yap-Menado cable to the Netherlands.⁵

That arrangement, however, because of a reservation, among others that were already filed in Washington, by the Italian Government, never was carried into effect. Notwithstanding the many steps taken by the Queen's Government after the above mentioned Conference and in spite of the fact that the German Government, in December, 1924, was pleased to inform the Reparation Commission that it would agree that the value of the Yap-Menado cable be not credited to Germany in the Reparation account, the recognition of the lawful Dutch rights remained without effect.

At the present time the nature of the injured interest no longer permits that the Dutch Government be satisfied with the allotment of the cable which had been provided. On the strength of Paragraph 20 of Annex II of Part VIII of the Treaty of Versailles and in view of the German Government's attitude concerning the value of the Yap-Menado cable being credited to the Reparation account, the Government of the Queen, deeming it expedient to arrive at a final solution after so many years, has the honor to claim, in place of the allotment of the cable, compensation for the injured Netherland interests according to the amount of the value set upon the Yap-Menado cable by the Reparation Commission (namely according to the information at hand 2,388,671 gold marks) plus interest at the rate of five percent per annum from the first of February, 1922, on which date the Washington arrangement could in reason have been ratified.

The Netherlands Government has instructed its diplomatic representatives to take similar steps with the Governments of Great Britain, France, Japan and Italy and feels assured that the Government of the United States and the other Governments above named are ready to take fair action on that request.

It is clear that this solution could in no wise affect the right to land at Menado which belongs to the Netherlands sovereignty and was expressly reserved in the above mentioned Germano-Netherlands Treaty of 1901.

Begging Your Excellency kindly to let me know what attitude the Government of the United States will see fit to take concerning the proposed solution, I take [etc.].

H. VAN ASCH VAN WYCK

⁴ Conference on the Limitation of Armament, Nov. 12, 1921-Feb. 6, 1922.

⁵ See memorandum by the Under Secretary of State, Mar. 25, 1922, *Foreign Relations*, 1923, vol. II, p. 762.

8621.73/80

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, March 15, 1927.

EXCELLENCY: I have the honor to refer to this Department's notes of September 15, November 16, and December 12, 1925, and to your notes Nos. 971 and 1059 dated November 4, and December 10, 1925, and to Mr. Chilton's note No. 1100 dated December 29, 1925,* concerning the resumption of meetings of the Committee to allocate the former German cables and with respect to the proposal that the Yap-Menado cable be transferred to the Netherlands Government in order to facilitate a settlement between the German-Netherlands Telegraph Company and its creditors and to state that in reply to inquiries addressed to the French, Italian, and Japanese Governments, notes have been received from the diplomatic representatives of these Governments in Washington as follows:

On November 3, 1925, Mr. Daeschner, the French Ambassador replied to this Department's notes suggesting that the meetings of the First Committee of the Washington Conference of 1920 be resumed on November 10, 1925. The Ambassador's reply has been translated as follows:

[Here follows the text of the Ambassador's note printed in *Foreign Relations*, 1926, volume II, page 771.]

On December 28, 1925 the French Ambassador forwarded a note concerning the proposal to transfer the Yap-Menado cable without delay to the Government of the Netherlands which has been translated as follows:

[Here follows the text of the Ambassador's note printed in *Foreign Relations*, 1926, volume II, page 775.]

On November 16, 1925 the Italian Ambassador called at the Department and stated that he had been designated to attend the meeting of the First Committee and desired to know when a meeting would be called. With respect to the allocation of the Pacific cables he stated that the Italian Government desired that questions relating to the distribution of the former German cables in the Atlantic Ocean as well as the questions relating to the former German cables in the Pacific should be settled definitely at the same time.

On February 13, 1926 the Italian Ambassador replied as follows respecting the proposal to transfer the Yap-Menado cable to the Netherlands:

[Here follows the pertinent portion of the Ambassador's note printed in *Foreign Relations*, 1926, volume II, page 778.]

* For the Department's note of Dec. 12, 1925, and Mr. Chilton's note No. 1100 of Dec. 29, 1925, see *Foreign Relations*, 1926, vol. II, pp. 774 and 775; the other notes are not printed.

On September 28, 1925 the Japanese Ambassador referred to the suggestion that a meeting of the First Committee of the Preliminary Conference on Electrical Communications of 1920 be held with a view to reaching an agreement respecting the final allocation of the former German cables in the Atlantic Ocean and stated that the Japanese Government was ready to resume the meeting of the Committee and to appoint the Ambassador as its representative at the Conference. The Japanese Ambassador addressed a note to this Department on January 8, 1926, in which he referred to the Department's note of December 12, 1925, concerning the transfer of the Yap-Menado cable to the Netherlands Government and made the following statements:

[Here follows the text of the Ambassador's note printed in *Foreign Relations*, 1926, volume II, page 776.]

You were good enough to inform me of the views of Your Government in the notes of your Embassy above mentioned.

On account of the views expressed by the interested governments it appeared desirable to arrange for the holding of a meeting of the First Committee of the Preliminary Conference on Electrical Communications and that further action was not practicable pending a meeting of the First Committee. Informal discussions concerning the Brest-Azores-New York cable took place with the French Ambassador, Mr. Berenger, before his departure from Washington and an expression of the views of the French Government in this regard is still awaited.

I have now received a note dated February 5, 1927 from the Netherlands Chargé d'Affaires ad interim at this capital presenting a claim in behalf of Netherlands subjects interested in these cables, in the amount of 2,388,671 gold marks plus interest at the rate of five per cent per annum from the first of February 1922, on account of the damages sustained by Netherlands subjects with respect to the Yap-Menado cable. I enclose a translation of the note received from the Netherlands Chargé d'Affaires⁶² and invite your attention to the fact that it is stated that similar instructions have been sent to the Netherlands diplomatic representatives accredited to the Governments of Great Britain, France, Japan and Italy.

This Government has acknowledged the receipt of the note of the Netherlands Chargé d'Affaires and has stated that the matter would be given consideration. I should be pleased if you would be so good as to advise me whether your Government has replied to the communication which it is understood was addressed to it by the Netherlands diplomatic representative accredited to your Government and to receive also an expression of your views in the matter.

In this connection I desire to state that this Government would have no objection to the opening of the Yap-Menado cable to traffic

⁶² *Supra*.

and its operation by the Dutch Government pending a definite allocation of the former German cables.

I shall also be grateful if you will be so good as to advise me whether you will be prepared to attend a meeting of the First Committee if this Government can make arrangements for it.

Similar notes have been addressed to the diplomatic representatives at Washington of the Governments of France, Italy and Japan.⁷

Accept [etc.]

FRANK B. KELLOGG

8621.73/81

The British Ambassador (Howard) to the Secretary of State

No. 213

WASHINGTON, March 31, 1927.

SIR: I have the honour to refer to your note No. 8621.73/64 [8621.73/80] of March 15th last, in the course of which you referred to a proposal on the part of the Netherlands Government that the claims of Dutch nationals in respect of the Yap cables should be met by a cash payment, and enquired what attitude His Majesty's Government had adopted thereto.

I am now instructed to inform you that, in reply to a note addressed to them by the Netherlands Minister on January 24th last on this subject, His Majesty's Government stated that the proposal that these claims should be satisfied by a cash payment is likely to give rise to insuperable difficulties, and that the only solution of the question on which general agreement between the Powers concerned is likely to be reached is that provisionally agreed to at the Washington Conference in 1922, namely that the Yap-Menado cable should be handed over to the Netherlands Government in full settlement of the claims in respect of Dutch interests in all three Yap cables.

His Majesty's Government have furthermore pointed out to Mr. van Swinderen that the German Government in October 1925 expressed the desire that the transfer of the Yap-Menado cable should take place without delay, and that, so far as His Majesty's Government are concerned, it is not desired to raise any objection to the immediate transfer of the cable provided that the French, Italian, Japanese and United States Governments concur in that course.

In bringing the foregoing information to your notice, I have the honour to add that His Majesty's Government consider it very desirable that a solution of the question in the manner provisionally agreed at the Washington Conference in 1922 should be reached as soon as possible, and that having long since expressed their acquiescence in the immediate transfer of the Yap-Menado cable to Holland, they cannot be expected in any event to assume responsibility for

⁷ Dated March 15, 1927; none printed.

any part of the pecuniary claim which the Netherlands Government have now put forward as a consequence of the delay in effecting such transfer.

In answer to your enquiry in the last paragraph of your note under reference, as to whether I would be prepared to attend a meeting of the First Committee of the Washington Conference of 1920, if and when the United States Government can make arrangements for the resumption of its meetings, I have the honour to invite reference to Mr. Chilton's note No. 749 of August 18th, 1925,^s in which he informed you that His Majesty's Government regarded it as desirable that the Committee should meet as soon as possible, and that they proposed to appoint me as their representative at the meetings which, so far as they were concerned, might take place at any date suitable to the convenience of the other interested governments.

I have [etc.]

ESME HOWARD

8621.73/84

The British Ambassador (Howard) to the Secretary of State

No. 302

WASHINGTON, May 2, 1927.

SIR: With reference to my note No. 213 of March 31st, last, I have the honour to inform you, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that His Majesty's Government consider that the Yap-Menado cable should be handed over at once to the Netherlands Government without waiting for the resumption of the work of the First Committee of the Washington Conference of 1920.

I have [etc.]

(For the Ambassador)

H. G. CHILTON

8621.73/84

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, May 16, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your Embassy's notes No. 213 and No. 302, dated March 31 and May 2, 1927, concerning the transfer of the Yap-Menado cable to the Netherlands Government. It is observed that His Majesty's Government considers that the Yap-Menado cable should be handed over at once to the Netherlands Government without waiting for the resumption

^s Not printed.

of the work of the First Committee of the Washington Conference of 1920.

I have received a communication dated April 26, 1927, from the Japanese Ambassador at this Capital⁹ in reply to the note which I forwarded to him on March 15, last, concerning this matter. The Japanese Ambassador states that his Government has not as yet sent a reply to the Netherlands Government and is not able to consent to the claims of that Government, which the Japanese Government believes would eventually necessitate a change in the provisions of the American-Japanese Agreement of 1921 in regard to the former German cables in the Pacific and give rise to various complications relative to the question of their disposition which has already been settled. The Ambassador adds that he is authorized to attend a meeting of the First Committee if it is called.

As replies have not been received to this Government's notes of March 15 to the diplomatic representatives at Washington of the Governments of France and Italy,¹⁰ a further communication is being addressed to them¹¹ setting forth the views expressed in the notes from your Embassy and in the note received from the Japanese Ambassador on this subject and urging them to expedite action with respect to the matter.

Accept [etc.]

FRANK B. KELLOGG

8621.73/90

The British Ambassador (Howard) to the Secretary of State

No. 542

WASHINGTON, September 28, 1927.

SIR: With reference to my note No. 302 of May 2nd last, informing you that His Majesty's Government considered that the Yap-Menado cable should be handed over at once to the Netherlands Government, I have the honour to draw attention to recent conversations between Mr. Vallance of the Legal Division of the State Department and Mr. Wright, then Resident Secretary at Washington, in which Mr. Vallance stated that it might be necessary to embody the assent of the United States Government to transfer the cable in question in a draft treaty to be submitted to the United States Senate for approval. I duly brought Mr. Vallance's remarks on this head to the attention of His Britannic Majesty's Principal Secretary of State for Foreign Affairs who now informs me that in the event of the United States Government considering that their assent to the said transfer requires embodiment in treaty form His Majesty's Govern-

⁹ Not printed.

¹⁰ Neither printed; see note of the Secretary of State to the British Ambassador, Mar. 15, 1927, p. 277.

¹¹ Not printed.

ment presume that such a treaty would be a bi-lateral one as between the United States Government and the Netherlands Government.

Furthermore, Mr. Vallance gave Mr. Wright to understand that the United States Government were contemplating a proposal whereby a meeting of delegates of all the Governments concerned should, if possible, be held prior to the forthcoming Radiotelegraph Conference¹² to discuss the question of the allocation of the ex-German cables as a whole. In this connection, Secretary Sir Austen Chamberlain has instructed me to inform you that His Majesty's Government are prepared to appoint a delegate at such a meeting on any date that may be fixed. If however the meeting in question cannot be held within the next three weeks His Majesty's Government consider it essential that steps should be taken to effect the separate transfer of the Yap-Menado cable to the Netherlands Government as soon as possible. In any event, His Majesty's Government having on repeated occasions expressed their acquiescence in the transfer of the Yap-Menado cable to Holland are not prepared to accept responsibility for any claim on the part of the Netherlands Government in respect of delay in the transfer.

I have [etc.]

ESME HOWARD

8621.73/80

The Secretary of State to the Netherlands Minister (Van Royen)

WASHINGTON, November 2, 1927.

SIR: I have the honor to refer to this Department's note, dated March 14, 1927, and to your Legation's *Aide-Mémoire*, dated June 24, 1927,¹³ concerning the proposed allocation of the Yap-Menado cable to your Government in satisfaction of claims of its nationals in respect to the German-Netherlands Telegraph Company.

With respect to your Government's claim that on account of the delay in transferring the Yap-Menado, to the Netherlands, the sum of 2,388,671. marks gold should be paid instead of the delivery of the cable,¹⁴ I regret to inform you that it has not been found possible favorably to entertain that request. It is believed that the only solution of the question is the delivery of the cable, as a full settlement of the rights of Netherland nationals. An effort is being made to dispose of this matter at a very early date.

Accept [etc.]

FRANK B. KELLOGG

¹² For text of the convention signed at the Conference, see vol. I, p. 288.

¹³ Neither printed.

¹⁴ See note from the Netherlands Chargé, No. 367, Feb. 5, 1927, p. 275.

S621.73/89

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, November 2, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 542 dated September 28, 1927, concerning the proposed allocation of the Yap-Menado cable to the Government of the Netherlands.

With respect to your observation with regard to the conclusion of a bi-lateral treaty between the United States and the Netherlands for the transfer of the interests of this Government in the Yap-Menado cable, it is suggested that the method by which title to the Yap-Menado cable should be transferred to the Netherlands may be left for later determination.

With reference to the suggested meeting of delegates of all the governments concerned for the purpose of discussing the question of the allocation of all ex-German cables, I am pleased to inform you that it appears from the records of this Department that the Governments of Italy and Japan have indicated their willingness to participate in a meeting for the discussion of this question. The Government of France, however, has not indicated its disposition in the matter. Accordingly steps are being taken with a view to obtaining a statement from the Government of France whether it would be prepared to attend a meeting of the First Committee of the Washington Conference of 1920, if and when this Government can make arrangements for the resumption of its meetings to consider the question of the allocation of all former German cables. It is hoped that it will be possible to arrange this meeting before the International Radiotelegraph Conference, now meeting in Washington, terminates its work, as it is considered possible that the governments concerned may desire to designate their representatives now attending the Radiotelegraph Conference to assist in the proposed Conference.

In a note dated July 1, 1927,¹⁵ the Chargé d'Affaires ad interim of France in Washington stated that the French Government did not find it possible favorably to entertain the request of the Netherlands Government that the sum of 2,388,671 marks gold be paid to that Government in lieu of the delivery of the Yap-Menado cable. It is added that the Government of France believes the only possible solution of the question is the delivery of the cable as a full settlement of the rights of the Netherlands nationals, and that it acquiesced in having the cable delivered immediately upon Germany agreeing not to have the value thereof credited to its reparation account.

¹⁵ Not printed.

The Italian Ambassador at this capital informed this Department that the Italian point of view concerning the Yap-Menado cable is contained in his note dated February 13, 1926,¹⁶ wherein it is stated that the Royal Italian Government in confirming its acceptance in the main lines of the Fletcher plan, maintained its adhesion to the transfer of the Yap-Menado cable to the Netherlands, the cession to take place without further delay.

A further communication is being addressed to the Ambassador of Japan¹⁷ with a view to obtaining a more definite statement concerning the position of the Japanese Government with respect to the early transfer of the Yap-Menado cable to the Netherlands Government.

Upon the receipt of favorable replies from the French and Japanese Governments the necessary steps will be taken to bring about the formal transfer of the Yap-Menado cable and also to convene a meeting to discuss the question of the allocation of all former German cables.

Accept [etc.]

FRANK B. KELLOGG

[The Japanese Ambassador informed the Department on Nov. 11, 1927, that his Government was disposed, subject to certain conditions, to consent to temporary operation of the Yap-Menado cable by the Government of the Netherlands. On Nov. 12, 1927, the French Ambassador informed the Department that his Government was willing that the French delegates to the Radiotelegraph Conference should take part in a meeting of the first committee of the Preliminary Conference on Electrical Communications (Preliminary Conference held at Washington in 1920) to discuss the question of the allotment of the German cables.

In view of the failure of some of the Governments concerned to reach an agreement on points of difference, neither the proposal for the allocation of the Yap-Menado cable to the Netherlands nor any other proposal was ever adopted.]

¹⁶ *Foreign Relations*, 1926, vol. II, p. 778.

¹⁷ Not printed.

NICARAGUA

EFFORTS BY THE UNITED STATES TO PRESERVE CONSTITUTIONAL GOVERNMENT IN NICARAGUA¹

817.00/4335 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, December 31, 1926—10 p. m.

[Received 10:40 p. m.]

259. A conference was held this morning in the Legation at the request of the Diaz Government. It was attended by the Minister for Foreign Affairs, the Minister of Finance, High Commissioner, Deputy Collector General of Customs and Manager of the National Bank. The Government representatives stated the Government was now absolutely [without] available funds to carry on military operations but was determined to hold out against the revolution to the bitter end and would as necessity arose resort to all the measures and expedients employed by governments in desperate straits such as inflation of the currency, capital levies on Liberals first and then indiscriminately and ultimately suspension of payments on foreign debts. All the Americans present including myself pointed out the extreme gravity of such measures and the disasters they would produce. Government ministers replied they understood the United States was determined not to make armed intervention under any circumstances, hence Mexican aid to the revolution would continue unchecked. They therefore only saw the alternatives of surrender to Mexico or a fight to the finish. They realized the latter course might mean the complete ruin of the country and of foreign interests here, all of which they would deeply regret but it was for them a question of life or death and of national honor. They believed moreover that surrender to Mexico would be equally disastrous for them regardless of any agreement they might obtain, the observance of which would not be guaranteed. Any foreign intervention ultimately provoked by resort to drastic measures would be preferable to Mexican domination.

It was understood at the end of the conference that some \$90,000, the remainder of the surplus which should go to meet the cost of the National Guard, sanitation and other items during the next half year, may be had at once by the Government and a loan of \$100,000 secured

¹ Continued from *Foreign Relations*, 1928, vol. II, pp. 780-823.

by railway earnings might be arranged. In the meantime plans will be carried forward by the Government to take some of the drastic measures mentioned above as soon as necessary.

Diaz would prefer resignation or peace at any price to resort to the extreme measures indicated; but the Conservative Party which is united and determined will in my opinion not give in to the revolution and will either impel Diaz to go to extremes or put another in his place who will stop at nothing.

Diaz still expresses hopes that the United States may find some way of checking further Mexican and other outside aid to the revolution which is believed here to be all that is necessary to bring the Liberals to consider peace proposals by Diaz.

EBERHARDT

817.00/4352½ : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *January 3, 1927—1 p. m.*

2. Legation's telegrams 258, December 31, 10 p. m.² and 259, December 31, 10 p. m. In view of Legation's statements that conditions in Managua are serious and that the Legation and American citizens have received threats repeatedly, telegraph Department if you deem it vital for the proper protection of the Legation and American and foreign lives and property that a Legation guard be established in Managua, especially in view of statements made by President Diaz reported in Legation's telegram of December 8, 8 a. m.³

KELLOGG

817.00/4352 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *January 4, 1927—noon.*

[Received 10:35 p. m.]

5. Department's telegram 2, January 3rd, 1 p. m. President Diaz told me today that in view of expedition with arms from Mexico expected soon to attempt landing on Pacific coast and general situation, he cannot guarantee protection of American and other foreign lives. British and Italian Chargés d'Affaires have made representations to me that they consider their subjects in imminent peril in the present situation without outside protection. I concur in these views which represent consensus of opinion here among Americans, other foreigners and most Nicaraguans. If the establishment of a Legation

² Not printed.

³ *Foreign Relations*, 1928, vol. II, p. 809.

guard should be postponed until crisis develops it would probably then be too late to accomplish its purpose. I believe the establishment of a Legation guard would contribute most effectively towards improvement of conditions and ultimate solution.

EBERHARDT

817.00/4352½ : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, January 4, 1927—6 p. m.

5. Orders have been issued to the Commander of the Special Service Squadron ⁴ to send a force of marines from the U. S. S. *Galveston* to Managua to act as a Legation guard. The *Galveston* will arrive shortly at Corinto.

This action has been taken (1) in view of statements made by President Diaz reported in Legation's telegrams dated December 8, 8 a. m., and December 15, 11 a. m.,⁵ soliciting American assistance to protect American and foreign lives and property, and (2) the statement in your telegram number 258 dated December 31, 10 p. m.,⁶ that threats directly and by mail have been received repeatedly by members of the Legation and other Americans.

You are instructed to inform President Diaz of the action contemplated. You may add that in view of his statements that he would approve in advance any measures which the Government of the United States might feel called upon to take to protect the lives and property of Americans, the Department feels sure that he will offer no objection.

You are instructed to arrange with President Diaz and the Captain of the *Galveston* such details as may be necessary in connection with the landing of the troops and their transportation to Managua.

KELLOGG

817.00/4352 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, January 6, 1927—3 p. m.

8. Your 5, January 4, noon. Inform commander of Legation Guard of representations made by British and Italian Chargés d'Affaires, and forward the text thereof to the Department by next pouch.⁷

KELLOGG

⁴ Admiral Julian L. Latimer.

⁵ *Foreign Relations*, 1926, vol. II, pp. 809 and 811.

⁶ Not printed.

⁷ Forwarded in despatch No. 332, Jan. 12, 1927 (not printed).

817.00/4377: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 6, 1927—7 p. m.

[Received January 7—11:10 a. m.]

8. Legation guard arrived here at noon and it is now on duty.

EBERHARDT

317.55/orig.: Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, January 7, 1927—7 p. m.

11. The Belgian Ambassador has requested on behalf of his Government that the United States Government afford protection to Belgian lives and property in Nicaragua.⁸ You may accord such protection to Belgian nationals as may be possible and proper under the circumstances.

KELLOGG

Message of the President of the United States to Congress, January 10, 1927⁹

TO THE CONGRESS OF THE UNITED STATES: While conditions in Nicaragua and the action of this Government pertaining thereto have in general been made public, I think the time has arrived for me officially to inform the Congress more in detail of the events leading up to the present disturbances and conditions which seriously threaten American lives and property, endanger the stability of all Central America, and put in jeopardy the rights granted by Nicaragua to the United States for the construction of a canal. It is well known that in 1912 the United States intervened in Nicaragua with a large force and put down a revolution,¹⁰ and that from that time to 1925 a legation guard of American marines was, with the consent of the Nicaraguan Government, kept in Managua to protect American lives and property. In 1923 representatives of the five Central American countries, namely, Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador, at the invitation of the United States, met in Washington and entered into a series of treaties.¹¹ These treaties dealt with limitation of armament, a Central American tribunal for arbitration, and the general subject of peace and

⁸ Request not printed.⁹ Reprinted from H. Doc. 633, 69th Cong., 2d sess.¹⁰ See *Foreign Relations*, 1912, pp. 1012 ff.¹¹ *Conference on Central American Affairs, Washington, December 4, 1922–February 7, 1923, Appendix* (Washington, Government Printing Office, 1923), pp. 284 ff.

amity. The treaty last referred to¹² specifically provides in Article II that the Governments of the contracting parties will not recognize any other government which may come into power in any of the five Republics through a *coup d'état* or revolution and disqualifies the leaders of such coup d'état or revolution from assuming the presidency or vice presidency. Article II is as follows:

"Desiring to make secure in the Republics of Central America the benefits which are derived from the maintenance of free institutions and to contribute at the same time toward strengthening their stability, and the prestige with which they should be surrounded, they declare that every act, disposition or measure which alters the constitutional organization in any of them is to be deemed a menace to the peace of said Republics, whether it proceed from any public power or from the private citizens.

"Consequently, the Governments of the Contracting Parties will not recognize any other Government which may come into power in any of the five Republics through a coup d'état or a revolution against a recognized Government, so long as the freely elected representatives of the people thereof have not constitutionally reorganized the country. And even in such a case they obligate themselves not to acknowledge the recognition if any of the persons elected as President, Vice-President or Chief of State Designate should fall under any of the following heads:

"1) If he should be the leader or one of the leaders of a coup d'état or revolution, or through blood relationship or marriage, be an ascendent or descendent or brother of such leader or leaders.

"2) If he should have been a Secretary of State or should have held some high military command during the accomplishment of the coup d'état, the revolution, or while the election was being carried on, or if he should have held this office, or command within the six months preceding the coup d'état, revolution, or the election.

"Furthermore, in no case shall recognition be accorded to a government which arises from election to power of a citizen expressly and unquestionably disqualified by the Constitution of his country as eligible to election as President, Vice-President or Chief of State designate."

The United States was not a party to this treaty, but it was made in Washington under the auspices of the Secretary of State, and this Government has felt a moral obligation to apply its principles in order to encourage the Central American States in their efforts to prevent revolution and disorder. The treaty, it may be noted in passing, was signed on behalf of Nicaragua by Emiliano Chamorro himself, who afterwards assumed the presidency in violation thereof and thereby contributed to the creation of the present difficulty.

In October, 1924, an election was held in Nicaragua for President, Vice President, and members of the Congress. This resulted in the election of a coalition ticket embracing Conservatives and Liberals.

¹² *Ibid.*, p. 287.

Carlos Solorzano, a Conservative Republican, was elected President and Juan B. Sacasa, a Liberal, was elected Vice President. This Government was recognized by the other Central American countries and by the United States.¹³ It had been the intention of the United States to withdraw the marines immediately after this election, and notice was given of the intention to withdraw them in January, 1925.¹⁴ At the request of the President of Nicaragua this time was extended to September 1, 1925.¹⁵ Pursuant to this determination and notice, the marines were withdrawn in August, 1925,¹⁶ and it appeared at that time as though tranquility in Nicaragua was assured. Within two months, however, further disturbances broke out between the supporters of General Chamorro and the supporters of the President, culminating in the seizure of the Loma, a fortress dominating the city of Managua.¹⁷ Once in possession of the Loma, General Chamorro dictated an agreement which President Solorzano signed the next day. According to the terms of this agreement the President agreed to substitute supporters of General Chamorro for certain members of his cabinet, to pay General Chamorro \$10,000 for the expenses of the uprising, and to grant amnesty to all those who participated in it. Vice President Sacasa thereupon left the country. In the meantime General Chamorro, who, while he had not actually taken over the office of President, was able to dictate his will to the actual Executive, brought about the expulsion from the Congress of 18 members, on the ground that their election had been fraudulent, and caused to be put in their places candidates who had been defeated at the election of 1924. Having thus gained the control of Congress, he caused himself to be appointed by the Congress as designate on January 16, 1926. On January 16, 1926, Solorzano resigned as President and immediately General Chamorro took office. The four Central American countries and the United States refused to recognize him as President. On January 22 the Secretary of State addressed to the Nicaraguan representative in Washington the following letter:¹⁸

"Dear Doctor Castrillo:

"In your communication of the 19th instant addressed to the Secretary of State you advise that President Solorzano having re-

¹³ See telegram No. 151, Dec. 10, 1924, 4 p. m. to the Chargé in Nicaragua, *Foreign Relations*, 1924, vol. II, p. 503.

¹⁴ See instruction No. 102, Oct. 8, 1923, to the Chargé in Nicaragua, *ibid.*, 1923, vol. II, p. 607.

¹⁵ See telegram No. 8, Jan. 14, 1925, 4 p. m., to the Chargé in Nicaragua, *ibid.*, 1925, vol. II, p. 622.

¹⁶ See telegram No. 126, Aug. 1, 1925, 4 p. m. from the Chargé in Nicaragua, *ibid.*, 1925, vol. II, p. 636.

¹⁷ See telegram No. 150, Oct. 25, 1925, 3 p. m. from the Chargé in Nicaragua, *ibid.*, 1925, vol. II, p. 659.

¹⁸ See telegram No. 11, Jan. 22, 1926, 3 p. m. to the Minister in Nicaragua, *ibid.*, 1926, vol. II, p. 784.

signed his office General Emiliano Chamorro took charge of the executive power on January 17.

"The hope expressed in your letter that the relations which have been close and cordial for so many years between Nicaragua and the United States will continue and grow stronger has been noted with pleasure. The Government and people of the United States have feelings of sincerest friendship for Nicaragua and the people of Nicaragua and the Government of the United States will of course continue to maintain the most friendly relations with the people of Nicaragua. This Government has felt privileged to be able to be of assistance in the past at their request not only to Nicaragua but to all countries of Central America more especially during the Conference on Central American Affairs which resulted in the signing of a General Treaty of Peace and Amity on February 7, 1923, between the five Republics of Central America. The object of the Central American countries with which the United States was heartily in accord, was to promote constitutional government and orderly procedure in Central America and those Governments agreed upon a joint course of action with regard to the nonrecognition of governments coming into office through *coup d'état* or revolution. The United States has adopted the principles of that Treaty as its policy in the future recognition of Central American Governments as it feels that by so doing it can best show its friendly disposition towards and its desire to be helpful to the Republics of Central America.

"It is therefore with regret that I have to inform you that the Government of the United States has not recognized and will not recognize as the Government of Nicaragua the regime now headed by General Chamorro, as the latter was duly advised on several occasions by the American Minister after General Chamorro had taken charge of the citadel at Managua on October 25th last. This action is, I am happy to learn, in accord with that taken by all the Governments that signed with Nicaragua the Treaty of 1923."

Notwithstanding the refusal of this Government and of the other Central American Governments to recognize him, General Chamorro continued to exercise the functions of President until October 30, 1926. In the meantime, a revolution broke out in May on the east coast in the neighborhood of Bluefields and was speedily suppressed by the troops of General Chamorro. However, it again broke out with considerable more violence. The second attempt was attended with some success and practically all of the east coast of Nicaragua fell into the hands of the revolutionists. Throughout these events Sacasa was at no time in the country, having remained in Mexico and Guatemala during this period.

Repeated requests were made of the United States for protection, especially on the east coast; and, on August 24, 1926, the Secretary of State addressed to the Secretary of the Navy the following communication:

"I have the honor to suggest that war vessels of the Special Service Squadron proceed as soon as possible to the Nicaraguan ports of Corinto and Bluefields for the protection of American and

foreign lives and property in case that threatened emergencies materialize. The American Chargé d'Affaires at Managua has informed the Department that he considers the presence of war vessels at these ports desirable, and the American Consul at Bluefields has reported that a warship is urgently needed to protect life and property at that port. An attack on The Bluff and Bluefields is expected momentarily."

Accordingly, the Navy Department ordered Admiral Latimer, in command of the special service squadron, to proceed to Bluefields. Upon arriving there he found it necessary for the adequate protection of American lives and property to declare Bluefields a neutral zone. This was done with the consent of both factions, afterwards, on October 26, 1926, reduced to a written agreement, which is still in force. In October [*September*], 1926, the good offices of the United States were sought by both parties for the purpose of effecting a settlement of the conflict.¹⁹ Admiral Latimer, commanding the special service squadron, brought about an armistice to permit of a conference being held between the delegates of the two factions. The armistice was originally for 15 days and was later extended for 15 days more. At the request of both parties, marines were landed at Corinto to establish a neutral zone in which the conference could be held. Doctor Sacasa was invited to attend this conference but refrained from doing so and remained in Guatemala City. The United States Government did not participate in the conference except to provide a neutral chairman; it simply offered its good offices to make the conference possible and arranged a neutral zone at Corinto at the request of both parties during the time the conference was held. I understand that at this conference General Chamorro offered to resign and permit the Congress to elect a new designate to assume the presidency. The conference led to no result, since just at the time when it seemed as though some compromise agreement would be reached the representatives of Doctor Sacasa suddenly broke off negotiations.

According to our reports, the Sacasa delegates on this occasion stated freely that to accept any government other than one presided over by Doctor Sacasa himself would be a breach of faith with their Mexican allies. Hostilities were resumed on October 30, 1926. On the same date General Chamorro formally turned over the executive power to Sebastian Uriza, who had been appointed designate by the Congress controlled by General Chamorro. The United States Government refused to recognize Señor Uriza, on the ground that his assumption of the Presidency had no constitutional basis. Uriza thereupon convoked Congress in extraordinary session, and the entire

¹⁹ See telegram No. 130, Sept. 10, 1926, 6 p. m., from the Chargé in Nicaragua, and subsequent papers, *Foreign Relations*, 1926, vol. II, pp. 791 ff.

18 members who had been expelled during the Chamorro régime were notified to resume their seats. The Congress which met in extraordinary session on November 10 had, therefore, substantially the same membership as when first convened following the election of 1924. This Congress, whose acts may be considered as constitutional, designated Señor Adolfo Diaz as first designate. At this session of Congress 53 members were present out of a total membership of 67, of whom 44 voted for Diaz and 2 for Solorzano. The balance abstained from voting. On November 11 Señor Uriza turned over the executive power to Diaz, who was inaugurated on the 14th.

The Nicaraguan constitution provides in article 106 that in the absence of the President and Vice President the Congress shall designate one of its members to complete the unexpired term of President. As President Solorzano had resigned and was then residing in California, and as the Vice President, Doctor Sacasa, was in Guatemala, having been out of the country since November, 1925, the action of Congress in designating Señor Diaz was perfectly legal and in accordance with the constitution. Therefore the United States Government on November 17 extended recognition to Señor Diaz.²⁰

Following his assumption of office, President Diaz, in the following note, dated November 15, 1926, requested the assistance of the United States Government to protect American and foreign lives and property:²¹

"Upon assuming the presidency I found the Republic in a very difficult situation because of the attitude, assumed without motive by the Government of Mexico in open hostility to Nicaragua. It must be clear to you that, given the forces which that Government disposes of, its elements of attack are irresistible for this feeble and small Nation. This condition places in imminent risk the sovereignty and independence of Nicaragua, and consequently, the continental equilibrium on which the Pan-Americanism is founded which the United States has fostered with such lofty spirit.

"Naturally the emergency resulting from these conditions places in peril the interests of American citizens and other foreigners residing in our territory and renders it impossible for a Government so rudely attacked, to protect them as is its duty and as it desires.

"For these reasons and appreciating the friendly disposition of the United States toward weak Republics and the intentions which your Government has always manifested for the protection of the sovereignty and independence of all the countries of America by morally supporting legitimate Governments in order to enable them [to] afford a tranquil field of labor for foreigners which is needed for the stimulation of the growth of the prosperity of these countries, I address myself to you in order that, with the same good will with which

²⁰ See the Department's press release of Nov. 17, 1926, *Foreign Relations*, 1926, vol. II, p. 807.

²¹ Also printed in an unnumbered telegram dated Dec. 8, 1926, 8 a. m., from the Chargé in Nicaragua, *Foreign Relations*, 1926, vol. II, p. 809.

you have aided in Nicaraguan reconciliation, you may solicit for my Government and in my name the support of the Department of State in order to reach a solution in the present crisis and avoid further hostilities and invasions on the part of the Government of Mexico.

"I desire to manifest to you at the same time that whatever may be the means chosen by the Department of State, they will meet with the approval of my absolute confidence in the high spirit of justice of the Government of the United States."

Immediately following the inauguration of President Diaz and frequently since that date he has appealed to the United States for support, has informed this Government of the aid which Mexico is giving to the revolutionists, and has stated that he is unable solely because of the aid given by Mexico to the revolutionists to protect the lives and property of American citizens and other foreigners. When negotiations leading up to the Corinto conference began, I immediately placed an embargo on the shipment of arms and ammunition to Nicaragua.²² The Department of State notified the other Central American States, to wit, Costa Rica, Honduras, Salvador, and Guatemala, and they assured the department that they would cooperate in this measure. So far as known, they have done so. The State Department also notified the Mexican Government of this embargo and informally suggested to that Government like action. The Mexican Government did not adopt the suggestion to put on an embargo, but informed the American ambassador at Mexico City that in the absence of manufacturing plants in Mexico for the making of arms and ammunition the matter had little practical importance.

As a matter of fact, I have the most conclusive evidence that arms and munitions in large quantities have been on several occasions since August, 1926, shipped to the revolutionists in Nicaragua. Boats carrying these munitions have been fitted out in Mexican ports, and some of the munitions bear evidence of having belonged to the Mexican Government. It also appears that the ships were fitted out with the full knowledge of and, in some cases, with the encouragement of Mexican officials and were in one instance, at least, commanded by a Mexican naval reserve officer. At the end of November, after spending some time in Mexico City, Doctor Sacasa went back to Nicaragua, landing at Puerto Cabezas, near Bragmans Bluff. He immediately placed himself at the head of the insurrection and declared himself President of Nicaragua. He has never been recognized by any of the Central American Republics nor by any other Government, with the exception of Mexico, which recognized him immediately. As arms and munitions in large quantities were reaching the revolutionists, I deemed it unfair to prevent the recognized Government from pur-

²² See telegram No. 17, Sept. 16, 1926, 1 p. m., to the Minister in Costa Rica, *Foreign Relations*, 1926, vol. II, p. 793.

chasing arms abroad, and, accordingly, the Secretary of State has notified the Diaz Government that licenses would be issued for the export of arms and munitions purchased in this country. It would be thoroughly inconsistent for this country not to support the Government recognized by it while the revolutionists were receiving arms and munitions from abroad.

During the last two months the Government of the United States has received repeated requests from various American citizens, both directly and through our consuls and legation, for the protection of their lives and property. The Government of the United States has also received requests from the British Chargé at Managua and from the Italian ambassador at Washington for the protection of their respective nationals. Pursuant to such requests, Admiral Latimer, in charge of the special service squadron, has not only maintained the neutral zone at Bluefields under the agreement of both parties but has landed forces at Puerto Cabezas and Rio Grande, and established neutral zones at these points where considerable numbers of Americans live and are engaged in carrying on various industries. He has also been authorized to establish such other neutral zones as are necessary for the purposes above mentioned.

For many years numerous Americans have been living in Nicaragua developing its industries and carrying on business. At the present time there are large investments in lumbering, mining, coffee growing, banana culture, shipping, and also in general mercantile and other collateral business. All these people and these industries have been encouraged by the Nicaraguan Government. That Government has at all times owed them protection, but the United States has occasionally been obliged to send naval forces for their proper protection. In the present crisis such forces are requested by the Nicaraguan Government, which protests to the United States its inability to protect these interests and states that any measures which the United States deems appropriate for their protection will be satisfactory to the Nicaraguan Government.

In addition to these industries now in existence, the Government of Nicaragua, by a treaty entered into on the 5th day of August, 1914,²⁸ granted in perpetuity to the United States the exclusive proprietary rights necessary and convenient for the construction, operation, and maintenance of an oceanic canal. Articles I and II of said treaty are as follows:

"Article I. The Government of Nicaragua grants in perpetuity to the Government of the United States, forever free from all taxation or other public charge, the exclusive proprietary rights necessary and convenient for the construction, operation and maintenance of an in-

²⁸ Text printed in *Foreign Relations*, 1916, pp. 849, 850.

terocceanic canal by way of the San Juan River and the great Lake of Nicaragua or by way of any route over Nicaraguan territory, the details of the terms upon which such canal shall be constructed, operated and maintained to be agreed to by the two governments whenever the Government of the United States shall notify the Government of Nicaragua of its desire or intention to construct such canal.

"Article II. To enable the Government of the United States to protect the Panama Canal and the proprietary rights granted to the Government of the United States by the foregoing article, and also to enable the Government of the United States to take any measure necessary to the ends contemplated herein, the Government of Nicaragua hereby leases for a term of ninety-nine years to the Government of the United States the islands in the Caribbean Sea known as Great Corn Island and Little Corn Island; and the Government of Nicaragua further grants to the Government of the United States for a like period of ninety-nine years the right to establish, operate and maintain a naval base at such place on the territory of Nicaragua bordering upon the Gulf of Fonseca as the Government of the United States may select. The Government of the United States shall have the option of renewing for a further term of ninety-nine years the above leases and grants upon the expiration of their respective terms, it being expressly agreed that the territory hereby leased and the naval base which may be maintained under the grant aforesaid shall be subject exclusively to the laws and sovereign authority of the United States during the terms of such lease and grant and of any renewal or renewals thereof."

The consideration paid by the United States to Nicaragua was the sum of \$3,000,000. At the time of the payment of this money a financial plan was drawn up between the Nicaraguan Government and its creditors which provided for the consolidation of Nicaragua's obligations. At that time the bondholders holding the Nicaraguan external debt consented to a reduction in interest from 6 to 5 per cent, providing the service of this loan was handled through the American collector of customs, and at the same time a series of internal guaranteed customs bonds amounting to \$3,744,000 was issued by the Nicaraguan Government to pay off the claims which had arisen against it because of revolutionary disturbances from 1909 to 1912. The other outstanding external bonds, amounting on February 1, 1926, to about £772,000, are held in Great Britain. Of the guaranteed customs bonds, \$2,867,000 were on February 1, 1926, still in circulation, and of these about \$1,000,000 were held by Nicaraguans, \$1,000,000 by American citizens, and the balance by nationals of other countries. The bonds held in the United States are held by the public in general circulation and, so far as the department knows, no American bankers are directly interested in the Nicaraguan indebtedness. This financial plan was adopted by an act of the Congress of Nicaragua on August 31, 1917.²⁴ The National Bank of Nica-

²⁴ *Foreign Relations*, 1917, p. 1138.

ragua was made the depository of all Government revenues. The internal revenues were, as heretofore, to be collected by the Government. Collection of the internal revenue, however, was to be taken over by the collector general of customs, an American citizen appointed by the Nicaraguan Government and approved by the Secretary of State of the United States, if the products should average less than \$60,000 a month for three consecutive months. This has never yet been necessary. The proceeds of the customs revenues were to be applied, first, to the payment of such sums as might be agreed upon in the contemplated contracts for the service of the foreign loan, the internal loan, and claims against the Nicaraguan Government. From the balance of the revenue \$80,000 a month was to be used for the ordinary budget expenses and an additional \$15,000 for extraordinary expenses.

Under this financial plan the finances of Nicaragua have been rehabilitated in a very satisfactory manner. Of the \$3,744,000 of internal customs bonds issued in 1917 about \$900,000 have been paid. Of the external debt, bonds issued in 1909 amounting to £1,250,000, there now remain only about £770,000. The total public debt of Nicaragua has been reduced from about \$22,000,000 in 1917 to \$6,625,203 at the beginning of 1926. Furthermore, the country in time of peace has ample revenues for its ordinary budget expenses and a surplus which has been used in extensive public improvements. The Nicaraguan National Bank and the National Railroad, controlling interests in which were formerly owned by American bankers, were repurchased by the Nicaraguan Government in 1920 and 1924, and are now wholly owned by that Government.

There is no question that if the revolution continues American investments and business interests in Nicaragua will be very seriously affected, if not destroyed. The currency, which is now at par, will be inflated. American as well as foreign bondholders will undoubtedly look to the United States for the protection of their interests.

It is true that the United States did not establish the financial plan by any treaty, but it nevertheless did aid through diplomatic channels and advise in the negotiation and establishment of this plan for the financial rehabilitation of Nicaragua.

Manifestly the relation of this Government to the Nicaraguan situation, and its policy in the existing emergency, are determined by the facts which I have described. The proprietary rights of the United States in the Nicaraguan canal route, with the necessary implications growing out of it affecting the Panama Canal, together with the obligations flowing from the investments of all classes of our citizens in Nicaragua, place us in a position of peculiar responsibility. I am

sure it is not the desire of the United States to intervene in the internal affairs of Nicaragua or of any other Central American Republic. Nevertheless it must be said that we have a very definite and special interest in the maintenance of order and good government in Nicaragua at the present time, and that the stability, prosperity, and independence of all Central American countries can never be a matter of indifference to us. The United States can not, therefore, fail to view with deep concern any serious threat to stability and constitutional government in Nicaragua tending toward anarchy and jeopardizing American interests, especially if such state of affairs is contributed to or brought about by outside influences or by any foreign power. It has always been and remains the policy of the United States in such circumstances to take the steps that may be necessary for the preservation and protection of the lives, the property, and the interests of its citizens and of this Government itself. In this respect I propose to follow the path of my predecessors.

Consequently, I have deemed it my duty to use the powers committed to me to insure the adequate protection of all American interests in Nicaragua, whether they be endangered by internal strife or by outside interference in the affairs of that Republic.

CALVIN COOLIDGE

THE WHITE HOUSE, *January 10, 1927.*

817.00/4394a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *January 10, 1927—3 p. m.*

15. Although the forceful measures now being taken to protect American lives and property rights and interests in the Republic of Nicaragua may contribute indirectly to stabilization and enable the recognized constitutional government to reestablish order and resolve its present difficulties, nevertheless, all concerned with this situation should not lose sight, even for a moment, of the main problem. Every encouragement should be given to the Diaz government to find a constructive and permanent solution of the problem which will eliminate disaffection and permit Nicaragua to enter as soon as possible upon a new era of permanent peace and prosperity. Lose no opportunity to reenforce this idea. The differences which now rend Nicaragua must be composed in a statesmanlike manner. It is obvious that much depends upon the ability of the Diaz Government to deal with the opposition in a broad and generous spirit both at present and later on. Nothing else can suffice. No matter

how constitutional its title may be, a government cannot be expected to maintain itself indefinitely in the face of serious internal dissension by relying upon indirect support derived from measures which the Government of the United States must take to protect its own nationals and interests. The foundations of lasting stability in Nicaragua should be laid as quickly as possible by Nicaragua's own Government. The first available opportunity should be seized to reach a real settlement of the domestic issue which divides the nation. Of course it is understood that the United States stands ready to extend its good offices for this purpose. Discreetly explore all the possibilities in this direction and let me know your opinion.

KELLOGG

817.00/4408 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 13, 1927—2 p. m.

[Received 9:30 p. m.]

13. Gradual progress is being made with the plan for bringing the two factions together in preliminary conferences. See last paragraph my December 31, 3 p. m.²⁵ On January 6 Admiral Latimer was asked to encourage Sacasa group on Atlantic to consider peace and the day following I induced three Liberals and three Conservatives of Managua to request Sacasa by cable to authorize agents here to enter into preliminary negotiations with Diaz government. Sacasa replied January 10th that since he had some time ago accepted Costa Rican offer of mediation he could not consider this proposition. He has probably been influenced in this attitude by false rumors of success of Liberal troops on Pacific side and what, until Rama was neutralized, seemed certain victory of his troops there. With the neutralization of Rama I felt that Sacasa might be more inclined to treat with Diaz government and accordingly yesterday I asked latter to make some definite proposals, bearing in mind that Liberals must be given generous treatment. These proposals will at once be communicated to the Department. It is believed that one of the first demands of the Liberals will be that 1928 elections be adequately supervised by the United States, which idea, in the [main], I believe I should be instructed to encourage, always stressing the difference between "supervised" and "guaranteed fair" elections. Repeated to Admiral Latimer.

EBERHARDT

²⁵ *Foreign Relations*, 1926, vol. II, p. 821.

817.00/4469

The Consul at Bluefields (McConnico) to the Secretary of State

No. 204

BLUEFIELDS, January 15, 1927.

[Received January 26.]

SIR: I have the honor to report that conditions at Bluefields and vicinity have been very quiet since the battle of Pearl Lagoon, which was fought on December 24 and 25, 1926. A few days after that battle 180 wounded and infirm were conveyed to Bluefields from the battlefield; and within the past few days 150 more have arrived. Some of these came from Rama and others from zones where the contending factions have engaged in skirmishes.

The American naval forces have declared the following places as neutral zones; Puerto Cabezas and Rio Grande, December 23, 1926; Pearl Lagoon, January 8; Prinzapolca, January 9; and Rama, January 10, 1927.

Liberal forces commanding positions on the Escondido River between Rama and Bluefields have captured two vessels in the service of the Conservatives: the *Sea Lion* on the 12th instant, and the *Seven Stars* on the 13th instant. In each case munitions and prisoners were taken.

I have [etc.]

A. J. McCONNICO

817.00/4440: Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, January 18, 1927—8 p. m.

[Received January 19—9 p. m.]

10. Minister for Foreign Affairs Matos this evening sent to Cuadra Pasos ²⁶ and Rodolfo Espinosa ²⁷ identical messages saying, after reference to the desire of the Government of Guatemala expressed December 6th that there be a pacific adjustment of the conflict in Nicaragua, that "for the event that no concrete negotiations for such abrogations [*adjustment?*] are pending, I put at the disposal of both parties the good offices of the Government of Guatemala for the initiation of preliminary conversations between the contending parties by its respective representatives with a view to the reestablishment of peace and concord in Nicaragua on the basis of an agreement acceptable by the two parties".

Dr. Matos contemplates that in the preliminary conversations, agreement be reached as to the time, place, and manner of holding a conference of representatives of the two elements. I have reliable

²⁶ Nicaraguan Minister for Foreign Affairs.²⁷ Minister for Foreign Affairs of the Sacasa regime at Puerto Cabezas.

information indicating Mexican backers of Sacasa are confident that he will continue to maintain an attitude of intransigency while professing to favor mediation of Costa Rica and although some Nicaraguans here are urging him to be conciliatory.

Repeated to Nicaragua.

GEISSLER

701.1711/209

Reply of President Coolidge to the Remarks Made by the Newly Appointed Nicaraguan Minister (Alejandro César) Upon the Presentation of His Letters of Credence, January 20, 1927

MR. MINISTER: It is a genuine pleasure to receive you and to recognize you as Envoy Extraordinary and Minister Plenipotentiary of the Constitutional Government of Nicaragua.

While official relations between the United States and your country were unfortunately interrupted for nearly a year by the prevalence of political conditions in Nicaragua which did not permit the United States and the other Governments of the world to maintain regular official contact, it is gratifying to note that the ties of friendship which have always bound together the peoples of the United States and of Nicaragua have at no time been impaired, and that throughout the trying period of nonrecognition most amicable, though informal, relations were always maintained. That we are now once more in a position, due to the establishment in Nicaragua of a constitutional government to which the United States and other Powers are able to extend recognition, to resume official relations is a matter of great satisfaction. I am glad to receive you as the duly accredited representative of the new Nicaraguan Government.

For many years the United States has been a good friend to the Nicaraguan people. Through our assistance asked and apparently welcomed, Nicaragua has enjoyed years of peace and tranquility, restored her almost hopelessly shattered national finances, increased her economic resources and vastly improved her position before the world. We take no undue credit for what was accomplished during that time. The chief credit belongs to the Nicaraguan people themselves. It was the sincere hope of this country that these conditions would continue and that it would be unnecessary for the United States to take any action for the protection of its citizens and their interests but unfortunately such has not been the case.

I take this opportunity of expressing the earnest hope that such internal dissension as still exists in your country may soon be dissipated so that no obstacle may bar the way to progress toward a new era of permanent peace and prosperity for Nicaragua. Although

American forces have with the consent, and at the request of your Government, been landed in order to safeguard the legitimate interests of the United States and the lives and property of its citizens, this state of affairs should not continue longer than is necessary. The United States, as I know your Government and the people of Nicaragua fully appreciate, has no selfish ends or imperialistic designs to serve. Least of all have we any desire to influence or dictate in any way the internal affairs of your country. The United States desires the independence and the prosperity of every Central American Republic. The foundations for permanent stability within Nicaragua must, of course, be laid by its own Government and I have been pleased to see that the initial steps for the elimination of disaffection and the composing of factional differences are already being taken.

817.00/4462a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, January 22, 1927—3 p. m.

27. Following is an interview with Sacasa reported by the Associated Press at Puerto Cabezas January 21:

"Although declining to accept most of the terms for a peaceful solution of the Nicaraguan internecine warfare suggested by President Adolfo Diaz at Managua, Dr. Juan Sacasa, the Liberal leader, looks with favor upon that portion of the Diaz proposals suggesting American supervision of the presidential elections of 1928. Dr. Sacasa, stating that he had no official knowledge of this part of the peace proposals, said that such a plan of supervision would suit him. He added, however, that possibly it would be better that the supervision be conducted jointly by the United States and representatives of the Latin-American nations signatory of the Washington pacts.²⁸ He said that joint supervision would be better because it would prevent charges of partisanship which might be made against the United States in case the elections should be unfavorable to the Liberal cause which is looked upon with disfavor by the American Government."

If both parties so desire the United States would be glad to supervise the regular election of 1928 and if both parties deem it wise the United States would not have any objection to participation of Central American States in such supervision. Please ascertain informally if a public statement by me to this effect would be satisfactory to the Nicaraguan Government.

KELLOGG

²⁸ See *Conference on Central American Affairs*.

817.00/4463 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 24, 1927—4 p. m.

[Received 8:25 p. m.]

24. Department's telegram of January 22, 3 p. m. Diaz has already announced publicly his acceptance of American supervision of the 1928 elections. If participation in American supervision means only observation thereof and reporting thereon without expense to Nicaragua by specially designated representatives of the other Central American countries or representatives of any other countries for that matter, the Nicaraguan Government would not object thereto.

In the opinion of President Diaz, in which I concur, joint supervision by the United States and the Central American Governments would be impracticable; and if undertaken, undesirable. The following are some reasons for this opinion:

First. Not one of the Central American Governments would be a disinterested and impartial party in respect of a Nicaraguan national election. Honduras would favor the Conservatives, Guatemala and Costa Rica the Liberals and Salvador while doubtful at present would certainly not be neutral. In every contest the supervisors would divide on strictly party lines like the judges of the Hayes-Tilden election dispute. The result would be that whatever the final outcome, presumably decisively by majority vote of the supervisors the losing Nicaraguan party would at once have the support of the dissenting opinion of one or more foreign nations in raising the usual cry of fraud which is sure to follow any Nicaraguan election no matter how or by whom conducted. What should be a local political dispute would thereby be transferred into an international wrangle without any likely gain resulting for Nicaragua or abstract justice.

Second. Whatever the procedure adopted for the electoral supervision, to any one who knows conditions here, racial, national, and other factors as well as a few instructive plebiscitary examples like Tacna-Arica, it is self-evident that the details could only be handled by a first-class world power enjoying a free hand, acting alone, and having at its command the competent official personnel, administrative machinery and other resources necessary for the successful performance of such a gigantic and complicated task as the supervision of the national elections of a country in which conditions of chronic disorder and bad administration prevail; that aside from the question of partiality no Central American Republic could by reason of a lack of technical experts, military and naval corps, and other necessary elements make any really useful contribution towards the achievement of this difficult and delicate undertaking; that Americans and Central

Americans could never cooperate jointly on a basis of equality participation in such operations for reasons that are obvious to one who knows anything of American intervention in Cuba, Haiti, Santo Domingo, Nicaragua, et cetera. For the United States solemnly to associate itself with four other countries, which have as yet had little success in self-government themselves, in an attempt to straighten out the Nicaraguan political difficulty but in reality in what would turn out to be an international concert to produce another Latin-American fiasco would be to deliver another deadly blow to an already shaken American prestige in Latin America. To invite the other Central American countries to aid Nicaragua to a solution of its problem is to call on the blind to lead the blind.

If we wish to help Nicaragua in this matter and maintain our prestige at the same time we should offer to supervise the elections of 1928 as an American undertaking the observation of which by duly accredited representatives of Central or Latin-American countries would be welcome. The assent of both parties in Nicaragua to such supervision is of course highly desirable and should be sought after but on this Government's invitation it should be carried out regardless of opposition. Any course we pursue in Nicaragua is certain to be the subject of bitter criticism inspired largely by the implacable hostility of certain Latin-American agitators to anything that is American. We should therefore choose a course which gives promise of yielding as satisfactory and just a solution as may be attainable for Nicaragua and take the full responsibility therefor. For the justification of such a course we should look mainly to its results for Nicaragua and American best interests.

EBERHARDT

817.00/4496a

The Secretary of State to the Secretary of the Navy (Wilbur)

WASHINGTON, January 27, 1927.

SIR: I have the honor to request that the attached message be despatched immediately to Admiral Latimer, provided you see no objection.

I have [etc.]

FRANK B. KELLOGG

[Enclosure]

Message for Admiral Latimer from the Secretary of State

Unless you perceive objection based upon some change in the situation which has not yet come to my attention, I should like to have you or some officer acting under your instructions take the earliest opportunity for an interview with Sacasa or Espinosa, and preferably

with both of them together, for the purpose of emphasizing orally the position of this Government in the following respects :

1. There is not the slightest possibility of the United States extending recognition to any Government in Nicaragua, headed either by Sacasa or by anybody else, which is based upon armed force or insurrection. Consequently, even if the insurrection now headed by Sacasa were successful and established control over the whole country, the United States could not, and would not, extend recognition to any Government so created.

2. The only Government which the United States can and will recognize until new elections are duly and regularly held under the Constitution is the Government which has been recognized. Consequently, the support naturally flowing from recognition will be accorded to the Diaz Government, under existing circumstances, until some duly constituted government succeeds it legally as the result of the elections scheduled to take place in 1928.

You are requested to make these points perfectly plain so that they shall admit of no misunderstanding.

For your confidential information I have been led to believe that Sacasa and Espinosa have not heretofore understood our policy in the above respects, and have been encouraged to indulge the hope that in some way the United States could be induced to alter its previously announced policy and eventually, either withdraw recognition from Diaz, or in case the Sacasa party could hang on long enough and win, to accord recognition to any government which that party might establish by forcible and insurrectionary methods. It seems to us important that this false impression, if it exists, should be immediately eliminated.

You may communicate the foregoing to Mr. Eberhardt for his strictly confidential information and not to be communicated by him to the Diaz Government or anybody else.

817.00/4438 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, January 27, 1927—5 p. m.

6. Legation's telegram number 11, dated January 19, 8 a. m.²⁹ It is not the intention of the Department to urge President Diaz to accept any foreign government's mediation to settle the differences between the Nicaraguan Government and the revolutionary forces based on the withdrawal of both President Diaz and Sacasa. You should make no more efforts to encourage the Government of Guatemala to offer its good offices in connection with this matter.

KELLOGG

* Not printed.

817.00/4505 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 31, 1927—4 p. m.

[Received 7:28 p. m.]

27. Admiral Latimer and officers left Managua yesterday commencing the return trip to Nicaragua Atlantic coast. During their three days in Managua they received many attentions and it is believed the visit has been entirely successful particularly with respect to opportunity it afforded Admiral and myself to discuss in detail problems of Nicaragua. Admiral was given opportunity to meet prominent men of both political parties. I presented myself at close of his interview with the Liberal committee and took occasion to reiterate my often expressed opinion that Sacasa would never be recognized even though the revolution against Diaz should prove successful; also that in my further opinion, since Diaz had been recognized, no deliberations should be undertaken without the clear understanding that Diaz should be expected to retain the Presidency till succeeded by the candidate regularly elected in 1928.

The first section of marines who succeeded present Legation guard arrived today. Guard from *Galveston* leaves tomorrow. Final detachment arrives February 2nd placing the number of guard at some 320.

Small revolutionary bands are said to have attacked Rivas and Nandaime yesterday but in both cases to have been defeated and to have fled to hills. There is well-founded belief that Costa Rica is winking at practice of these bands of rearming and provisioning themselves in that country whence they make sallies into Nicaraguan territory.

Law goes into effect tomorrow whereby for 2 years increases in certain import and export taxes are to accrue directly to Government which will use them for the present for current expenses.

EBERHARDT

817.00/4540

The Secretary of State to the Secretary of the Navy (Wilbur)

WASHINGTON, February 7, 1927.

SIR: I have the honor to request that the attached message be transmitted immediately to Admiral Latimer if you see no objection.

I have [etc.]

FRANK B. KELLOGG

[Enclosure]

Message for Admiral Latimer from the Secretary of State

The Department has just received a message from Puerto Cabezas which reads in translation as follows: ³⁰

³⁰ Received Feb. 5, 2:07 p. m.

"Our representative Doctor Vaca reports to us he declared to your Department that the Government of the Constitutional President, His Excellency Doctor Sacasa accepts honorable mediation United States and Central America for settlement of Nicaraguan dispute and proposes a conference at Washington between delegates of Señor Diaz and ours, I have the honor to say to your Excellency that my Government approves that declaration which I hereby ratify with the assurance of my high consideration.

(Sd.) Rodolfo Espinosa
Minister of Relations of Nicaragua."

You will observe that this message presupposes an offer of mediation by this Government and that Sacasa undertakes to accept such offer in his pretended capacity of Constitutional President of Nicaragua. This is, of course, a bid for implied recognition. The United States has not made any offer of mediation. It has merely adopted a receptive attitude indicating that its good offices would be available if invoked by both sides. The United States has not recognized the Sacasa movement as a Government, nor has it even recognized belligerency. We cannot call formal conferences at the request of the revolutionary party alone. If by the use of your personal good offices both factions can be brought together, and if as the result of such a meeting the good offices of this Government are invoked by both parties, we should naturally consider any proposal that might be submitted in that way with the approval of both sides. We believe that any conference, either preliminary or final, should be held in Nicaragua rather than in Washington. If you should find that a meeting is feasible through the exercise of your personal efforts please wire fully and await further instructions.

Unless you see some objection you will communicate the substance of this message informally and orally to Doctor Sacasa and Doctor Espinosa. In the circumstances it is hoped that you can arrange to be at Puerto Cabezas as soon as possible, since communication with Sacasa through you personally rather than through a subordinate officer, seems preferable in this matter.

817.00/4542a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, February 7, 1927—3 p. m.

34. Associated Press reports from Managua that Chinandega has been captured and burned by revolutionary forces. Please report by telegraph.

It is also reported that this information was obtained by an American aviator in the service of the Diaz Government. Please inform the Department whether American citizens are serving in the Nicaraguan army and if so how many and positions they hold.

KELLOGG

817.00/4542: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 7, 1927—4 p. m.

[Received 10:55 p. m.]

31. Fighting has been in progress in the city Chinandega since early Sunday morning.³¹ Nine blocks of the city have been burned by fire set by Liberal attackers. Conservative General Viquez is holding part of the town with some 500 against variously reported 600 to 2,000 revolutionists under Parajon. Viquez awaits relief by main expeditionary force under his command which has been some 30 miles away looking for the revolutionary force which is now attacking Chinandega. Government casualties reported so far 25 killed and 25 wounded, Liberal losses still unknown. Government is also rushing troops from Managua and Granada to Chinandega. Rail and wire communication between Managua and Corinto broken.

Diaz believes that revolutionists have recently received arms from the other side possibly through Salvador or Honduras and certainly through Costa Rica.

EBERHARDT

817.00/4543: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 7, 1927—9 p. m.

[Received February 8—1:24 a. m.]

32. Department's telegram 34, February 7, 3 p. m., has been answered in most part by the Legation's 31.³² President Diaz reports that revolutionists who attacked Chinandega have been dispersed and driven to hills by the Government troops.

Americans Daniel Rodriguez and Lucius J. Clay are instructors with the Nicaraguan Government Constabulary and Lee Mason and William Brooks are aviators accredited to the same service. A Nicaraguan cadet accompanied Brooks today in flight over Chinandega where he is said to have dropped two bombs from plane.

EBERHARDT

³¹ February 6.

³² *Supra.*

817.00/4543 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 8, 1927—4 p. m.

35. Legation's number 31, February 7, 4 p. m. The following message has been telegraphed to Admiral Latimer by the Navy Department:

"Minister Eberhardt reports heavy engagement at Chinandega which has resulted in interruption of railway and telegraph communication between Corinto and Managua. The Nicaraguan Minister at Washington has intimated that the Government of the United States should aid in this emergency, at least to the extent of reopening these lines of communication. The Department has informed the Nicaraguan Minister that the Government of Nicaragua is exclusively responsible for maintaining order and uninterrupted communication and that the Diaz Government cannot expect the forces of the United States to participate in aggressive measures against the Nicaraguan revolutionists. The Department has assumed that you have taken every necessary precaution to see that the American forces do not become involved in any direct action against the revolutionists."

The Department has deemed it extremely important that you impress upon President Diaz the fact that the American forces in Nicaragua will not under any circumstances be drawn into the position of engaging with Government troops against the revolutionary forces. The maintenance of order outside the neutral zones already established is the special and exclusive responsibility of the Government of Nicaragua. Should the revolutionists definitely occupy and hold Chinandega, or any other position along the line of communication between Managua and Corinto, the American forces will not be used to dislodge them. Nevertheless, the Government of the United States will notify them that they will be expected to protect American lives and property at any place under their control and will be expected to maintain uninterrupted communication so far as the maintenance and supply of American forces in Managua is concerned.

KELLOGG

817.1051/128 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, February 8, 1927—6 p. m.

36. Your 32, February 7, 9 p. m., second paragraph. The Department was not aware that American aviators were accredited to the constabulary or that there was any aviation service connected with

this organization. In any event, the American instructors of the Nicaraguan constabulary, Major Carter and Major Rodriguez, were not expected to participate in hostilities between political factions in Nicaragua. The constabulary was intended purely as a police force and it was with that understanding that the Department approved the appointment of Americans as instructors. Messrs. Mason and Brooks appear to be combatant aviators attached to the Nicaraguan armed forces.

While this Government has not undertaken in such cases to regulate the conduct of American citizens abroad and beyond the jurisdiction of the United States it feels constrained to observe that the very evident intent of the neutrality laws of the United States is to discountenance the enlistment of American citizens in foreign armed forces.

In order to remove any misapprehension on the part of American citizens now attached to the Nicaraguan constabulary or other armed forces, you should make plain to them the Department's views as expressed above and further inform them that in the event of their taking an oath of allegiance to a foreign government they forfeit their American citizenship and that if the instructors attached to the constabulary actively participate in hostilities between the Government forces and the revolutionaries or if other American citizens enlist or attach themselves to the Nicaraguan armed forces they cannot look to the Government of the United States for protection.

KELLOGG

817.00/4546 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 9, 1927—4 p. m.

[Received 7:06 p. m.]

37. Today brings first train service between Managua and Corinto since Saturday.³³ Passengers report frightful devastation at Chinandega with strong likelihood of another attack by revolutionists on that or neighboring city.³⁴

EBERHARDT

817.00/4586 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 16, 1927—6 p. m.

[Received 9:55 p. m.]

45. On February 12, a Government garrison of 120 men at Muy Muy, Department of Matagalpa, was driven out by a superior force

³³ February 5.

³⁴ On February 14 Admiral Latimer was authorized to use the forces under his command to keep open the railroad and to establish neutral zones in such places along the railroad as he deemed "necessary to safeguard the lives and property of American and foreign citizens." (File No. 817.00/4584.)

of Liberals whose number is not really known here. Exaggerated and grossly inaccurate reports of this engagement from Conservative commander of defeated detachment and others showed large Liberal army of a thousand or more rapidly advancing on Matagalpa. Upon receipt of these reports Conservative General Arguello at Matagalpa informed Government he could not defend town against the expected attack whereupon he was ordered to evacuate Matagalpa, retiring to Ciudad Dario to prevent repetition of Chinandega disaster, which he did on the 14th. On receipt of later information that Liberal forces were not advancing on Matagalpa, Arguello reoccupied the town yesterday noon without any fighting. The Government is placing over a thousand men at or near Matagalpa and hopes soon to win a decisive encounter with the Liberals.

The Liberal expeditionary force from the Atlantic coast under Moncada,³⁵ according to Admiral, numbers about 1,000 armed men and some 36 machine guns. Their interior base at present is San Pedro del Norte at the junction of rivers Tuma and Grande. From this main army an expedition, size and leaders still unknown, has been sent interiorward and it was this force that defeated Government outpost at Muy Muy and was believed to menace Matagalpa. That expedition according to Government reports is now at Tierra Azul, its plans and strength being unknown by the Government. It would therefore appear that this force is not now moving towards Matagalpa.

The tactics indicated for this revolutionary force are to attack small Government outposts, capturing arms and demoralizing Government until main Moncada force comes up with more supplies; to avoid engagement with main body of Government troops; and in time to march via Matagalpa and Jinotega into Liberal Departments of Esteli, Leon and Chinandega. Had the Government good generals, scouts and spies, thereby ascertaining position of the Moncada forces from day to day the Government could despatch intelligently an adequate army to destroy the Moncada expedition. If, however, as is to be expected, the Government military operations are not intelligently directed, the Moncada expedition will continue active and may accomplish almost anything, the chief danger being surprise attacks on large towns as at Chinandega.

It is increasingly evident that without complete intervention there is no likely prospect of an early restoration of order.

EBERHARDT

³⁵ José Maria Moncada, Minister of War and Marine in the Sacasa regime at Puerto Cabezas, and commander of the Liberal forces.

817.00/4590 : Telegram

The Second Secretary of Legation in Nicaragua (Dennis) to the Secretary of State

MANAGUA, February 18, 1927—5 p. m.

[Received 8:20 p. m.]

48. Minister went to Corinto today for conference tomorrow with Admiral Latimer.

DENNIS

317.41/12

The British Ambassador (Howard) to the Secretary of State

No. 130

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State, and has the honour to state that he has been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to draw the attention of the United States to the menace to British lives and property arising from the present disturbances in Nicaragua. In particular, His Majesty's Government have been advised by His Majesty's Chargé d'Affaires at Managua that the hostilities between the rebels and Government troops have now resulted in a situation which threatens the safety of British lives and property in Corinto, Leon, Managua, Granada and Matagalpa.

In view, therefore, of the grave risks to which British residents in Nicaragua are now exposed, His Majesty's Ambassador has been instructed to remind the United States Government that His Majesty's Government look to them to extend to British subjects, and especially to those in the places above mentioned, the same measure of protection as they afford to United States citizens in the districts now threatened by revolutionary disturbances.

WASHINGTON, February 19, 1927.

Press Release Issued by the Department of State, February 21, 1927

Acting under authorization of the State Department Admiral Latimer landed forces from the *Milwaukee*, *Raleigh*, and *Galveston* yesterday morning to protect American lives and property along the railroad and to maintain communication between the Legation Guard in Managua and the sea. The details of the forces landed are as follows:

Chinandega (Headquarters) Detachment—Comdr. C. M. Austin: 17 officers, 270 Bluejackets, 86 Marines to protect railroad Corinto to Leon.

Leon Detachment—Lt. Colonel J. J. Meade: 20 officers, 215 sailors. 235 Marines to protect railroad Leon to Managua.

Legation Guard Managua under Maj. H. G. Bartlett: 12 officers 141 Marines.

This Force will be under command of Capt. C. H. Woodward with Major T. S. Clarke, Chief of Staff, and headquarters at Leon.

The Legation Guard at Managua now occupies the Loma in order to afford better protection to foreign lives and property. These detachments were landed and arrived at their destinations without incident. All these measures have been taken with the full consent and approval of President Diaz.

517.00/4604 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 21, 1927—2 p. m.

[Received 6:16 p. m.]

51. Sunday morning Admiral Latimer landed forces as outlined in our cables sent from aboard U. S. S. *Milwaukee* Saturday.⁸⁸ He is doubtless keeping the Department posted through the Navy Department regarding their disposition. He has ordered an armed squad with a machine gun on every train between Managua and Corinto and plans to place marine guard in the Managua fortress La Loma on February 23rd. This Legation has no indications of other changes in the local political or military situation.

EBERHARDT

817.00/4606 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 22, 1927—5 p. m.

[Received February 23—12:28 p. m.]

52. The following has today been received from Mr. Patteson, the British Chargé d'Affaires in Managua:

"I have the honour to inform Your Excellency that in the absence of guarantees from the Nicaraguan and United States Government for the protection of the lives and properties of British subjects in the event of further street fighting, incendiarism, and pillage, in the threatened districts of this Republic, His Britannic Majesty's Government are reluctantly contemplating the despatch of a man-of-war to the western coast of Nicaragua.

"It is with pleasure that I am instructed to inform Your Excellency that His Majesty's Government thanks the Government of the United States once more for its assistance and still continues to rely thereon."

EBERHARDT

⁸⁸ February 19; cables not found in Department files.

817.00/4608

The British Ambassador (Howard) to the Secretary of State

No. 141

WASHINGTON, February 23, 1927.

SIR: I have the honour to inform you, on instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that His Majesty's Government have reluctantly decided to send a man-of-war to the West Coast of Nicaragua and that H. M. S. *Colombo* is being despatched to Corinto. She should arrive at Colon on February 24th and at Corinto on February 26th.

His Majesty's Government feel that the presence of a war vessel may have a moral effect and would be a base of refuge for British subjects.

It is of course not intended to land forces and the Commanding Officer will be instructed accordingly.

In informing you of the above, I am instructed to express once more to the United States Government the thanks of His Majesty's Government for their assistance, and to add that His Majesty's Government will continue to rely on it.

I have [etc.]

ESME HOWARD

317.41/12

The Secretary of State to the British Ambassador (Howard)

The Secretary of State presents his compliments to His Excellency, the British Ambassador, and in reply to the latter's note No. 130, of February 19, 1927, concerning the protection of British lives and property in Nicaragua, has the honor to inform the British Ambassador that the American armed forces which have been landed in Nicaragua for the protection of American and foreign lives and property will be pleased to extend to British subjects such protection as may be possible and proper under the circumstances.

WASHINGTON, February 24, 1927.

817.00/4608

The Acting Secretary of State to the British Ambassador (Howard)

WASHINGTON, February 26, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 141, of February 23, 1927, informing me that His Majesty's Government has reluctantly decided to send a man-of-war to the west coast of Nicaragua, and that H. M. S. *Colombo* is being despatched to Corinto. I note that His Majesty's Government feels that the presence of a war vessel may have a moral effect and will be a base of refuge for British subjects. I have further noted that it is not

intended to land forces and that the commanding officer will be instructed accordingly.

It gives me pleasure to repeat the assurances conveyed to Your Excellency in my note of February 24, that the American armed forces now in Nicaragua will continue to extend protection to British subjects in that country.

Accept [etc.]

JOSEPH C. GREW

817.00/4620 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 28, 1927—noon.

[Received 2:45 p. m.]

59. A delegation of prominent Liberal leaders was commissioned by vote of a party caucus held last week in Managua to proceed on a mission to Moncada's headquarters somewhere in or near Matiguas or Tierra Azul, Department of Matagalpa, to make representations to Moncada in favor of an immediate armistice and a peaceful settlement with Diaz. I have arranged safe conducts and for two Marine officers to accompany them through the hostile lines. The delegation expects to leave tomorrow or day after.

EBERHARDT

317.93/2a : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, March 3, 1927—8 p. m.

53. Chinese Minister reports two cases of looting and two of incendiarism of Chinese property in Chinandega. He requests that attention of American forces be specifically drawn to the fact that we have agreed to use our good offices to protect Chinese interests in Nicaragua.³⁷

GREW

317.93/3 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 4, 1927—3 p. m.

[Received 5 p. m.]

68. Your 53, March 3, 8 p. m. These cases had already come to the attention of the Legation and in turn were communicated to the Ameri-

³⁷ At the request of the Chinese colony in Bluefields, made through the American consul at Bluefields, the Department on Apr. 6, 1925, instructed the Minister in Nicaragua "to make informal representations to the Government of Nicaragua to the end that proper protection may be afforded the Chinese colony on the east coast." (File No. 317.93/-.)

can forces. In common with others who suffered in this manner at Chinandega the Chinese were advised to prepare these claims carefully for presentation later to the commission which seemed certain to be formed for their consideration.

EBERHARDT

817.00/4632 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 5, 1927—6 p. m.

[Received 10:34 p. m.]

69. Mr. Willey, American citizen who accompanied as guide peace commission to Moncada, has telephoned me this afternoon at 4 on return to Matagalpa that mission had conferred with Moncada and Beltran Sandoval at Muy Muy. Moncada, while not committing himself, seemed not unwilling to treat for peace but said he would only treat through me as American Minister. The mission was expected to return tomorrow night to Managua when more complete details will be telegraphed. Admiral Latimer is sending 140 men to Matagalpa tomorrow.

EBERHARDT

817.00/4640 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 7, 1927—9 p. m.

[Received March 8—12:01 a. m.]

71. All members of the committee which recently interviewed Moncada have called upon me. They report nothing definite nor constructive. Moncada is reported to accept on principle the peace terms but is unwilling to give final answer without consulting his chief, Dr. Sacasa, with whom he will communicate as best he can and authorizes Liberal mission to do the same in his name, adding that he would accept any government in Nicaragua administered by the United States for the next 18 months in preparation for guaranteed fair elections in 1928; that when the time comes he will treat only with the American Minister in any event; that he will not for a moment consider any proposition which contemplates retention of the Presidency by Diaz and that his military position is today so strong that he expects to launch an offensive at once intimating that he will attack Boaco where the Conservatives are known to have concentrated a large number of troops preparatory to what Diaz states will be a concerted attack against the Liberals at Muy Muy and Tierra Azul while their comrades coming from Matagalpa will attack Moncada at Matiguas.

There seems to be good reason to believe that while both sides profess to want early peace they are really expecting to engage within the next few days in one of the biggest and probably most important battles of the campaign. Liberals in and near Leon are reported to be actively gathering pack and saddle animals during last twenty-four hours.

EBERHARDT

817.00/4659 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 17, 1927—10 a. m.

[Received 2 p. m.]

77. General Reyes, leader of the Conservative troops in and near Matagalpa, hurriedly visited Managua yesterday and reported to President Diaz that at daylight on March 14th the Liberal forces after a night march from Muy Muy attacked Reyes army at San Geronimo. The Liberal forces are said to have numbered 800 with 25 machine guns and otherwise well equipped under the combined leadership of Muller, a Latvian; Escamilla, a Mexican; Mena, son of the famous Nicaraguan General of that name. Reyes and Estrada combined troops numbered 700 with 20 machine guns. The fight was very bitter until noon when the Liberals withdrew. The Conservatives went over the battlefield and report having captured 2 machine guns, 80 rifles and 3,000 rounds of ammunition; also having found in one group seven dead Mexicans identified by tattoos, clothing, jewelry and their cheers for Calles during the battle; one tall blonde believed to be a German and three Costa Ricans. An hour later Liberals returned to attack viciously and at 3 p. m. both sides withdrew, the Conservatives claiming a victory but having exhausted their ammunition. They are now at San Ramon some 20 miles from the battlefield. The Liberals are supposed to have returned to their old stronghold Muy Muy, to await reinforcements. Conservatives report 27 dead and 38 badly wounded and claim their adversaries lost at least 100 men. On the 15th General Viquez attacked Sandoval at Tierra Azul, the latter having retired without much resistance, presumably with the idea of joining the other generals mentioned above, all probably to be joined later by Moncada and his men from Matiguas.

It is estimated that Conservatives number about 3,000 men, well armed but with poor morale, and the Liberals 1,500 to 2,000 at most, well armed and with high morale. It is common opinion that if the long-expected decisive battle does not take place within the next few days guerrilla warfare and anarchy will follow.

EBERHARDT

817.00/4680 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 2, 1927—3 p. m.

[Received 7:32 p. m.]

91. Much activity is reported in the Leon district among the several thousand men of military age, some 2,000 of whom, with probably 500 of them fairly well armed, reported as following Parajon and Wassmer in separate bands seeking to break through Conservative lines and join Moncada. A small detachment of poorly armed cavalry is also reported active across the lake from Managua, their plan believed to be to attack Teustepe or other small towns in the rear of Conservative armies. This entire movement seems planned to distract attention of Conservatives from the big offensive against Moncada which has been discussed for weeks but which now seems certain to take place within the next 48 hours if plans, which have been shown to me confidentially, carry. General Viquez, commanding some 3,500 troops well armed, is sending Generals Reyes and Delgadillo against Muy Muy, Generals Mayorga and Lorente to attack Matiguas from the rear with 600 well armed men, he and Gomez attacking Tierra Azul at the same time. Muy Muy is not expected to give strong resistance when Delgadillo is expected to reenforce attack on Matiguas and Reyes to support Viquez at Tierra Azul where strongest resistance is expected. The general attack is set for 7 o'clock Sunday or Monday morning depending on time Reyes-Delgadillo forces may be ready to attack Muy Muy.

EBERHARDT

817.00/4682c : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, April 4, 1927—1 p. m.

64. After having studied the general situation, the Department is of the opinion that the Nicaraguan problem has reached the stage where a more accurate definition of our future policy is imperative. The Department is deeply impressed by the desirability of exchanging views with you and Admiral Latimer in a way other than by the ordinary channels of communication. Under present circumstances it is obviously impracticable for you and Admiral Latimer to come to Washington for a conference. Accordingly, after consultation with the President and with his approval, Col. Henry L. Stimson, former Secretary of War, has been asked to go to Nicaragua to convey such views and information as the Department has, and to consult with you and Admiral Latimer regarding the entire situa-

tion to the end that he may report to the Department upon his return to Washington his and your joint opinions. It is the intention of Colonel Stimson to sail on the S.S. *Aconcagua* April 9. At Panama arrangements will be made for him to proceed immediately to Corinto by war vessel. Colonel Stimson will remain in Nicaragua not over two weeks. He will return direct to Washington. The Department is certain that you will welcome this opportunity to confer with Colonel Stimson, placing at his disposal the information you possess and offering him your views in detail. Telegraph immediately whether you see any objection to his visit. Word is being sent to Admiral Latimer.

You will hold the above strictly confidential for the time being. Department will telegraph you when you may inform the Government of Nicaragua.

KELLOGG

817.00/4690 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 5, 1927—4 p. m.

[Received April 6—2:20 p. m.]

95. Department's 64, April 4, 1 p. m. I perceive no objection to his visit and welcome opportunity to confer with him.

EBERHARDT

817.00/4691 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 6, 1927—3 p. m.

[Received 9:50 p. m.]

97. The Conservatives report decisive victory at Muy Muy yesterday and successful attack on the Liberals near Tierra Azul where fighting continues today with excellent prospects of an early and complete Conservative victory.

EBERHARDT

817.00/4690 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 7, 1927—6 p. m.

65. Your 95, April 5, 4 p. m. The following notice is being given to the press today:

"The Honorable Henry L. Stimson, of New York, former Secretary of War, has consented to make a trip to Nicaragua as a representative of the President, at the suggestion of the Secretary of State,

in order to take to our Minister, Mr. Eberhardt, and Admiral Latimer, certain views of the administration which cannot conveniently be taken up by correspondence, and in order to get information from them as to the entire situation in that country to bring back for the use of this Government, which they cannot very well give to us through correspondence. This suggestion has been presented to both Mr. Eberhardt and Admiral Latimer, who concur in it as a method that might be helpful in securing information on which this Government can more intelligently base its future action. The strife and bloodshed that is going on in that country is a matter of great regret, and the necessity for protecting the interests of our citizens there and the large interests of the United States Government is very great."

Inform President Diaz of the above immediately by note stating that you feel sure that Mr. Stimson's visit will be welcomed by the Nicaraguan authorities who will doubtless be glad to assist him in every way possible to fulfill his mission of procuring complete information as to the situation in Nicaragua.

Mr. Stimson sails Saturday, April 9, on the S. S. *Aconcagua* to Panama. Arrangements have been made for him to be transported immediately from Panama to Corinto on a war vessel. He is accompanied by Mrs. Stimson and Consul General Dawson.

KELLOGG

817.00/4702 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 12, 1927—5 p. m.

[Received 10:50 p. m.]

101. If Conservatives can be believed, they have finally won a decisive victory over Moncada forces which are reported fleeing in small groups in great disorder, the only semblance of any remaining organized body being Mena's band of probably 250 men said to have retreated toward Matiguas where General Hurtado with double that number has followed and expects to give him battle. General Viquez is said to have given orders for other generals to follow up all fleeing groups. It is rumored that Moncada with a few faithful followers is making his way toward east coast via Rio Negros. Conservatives report the capture of Palo Alto, of 90,000 rounds of ammunition, 3 cannons, 2 Thompson guns, 40 crates cannon shells, many rifles. That Liberals should have abandoned this well-fortified hill indicates that followers with decreasing food supply could no longer be induced to fight against increasing numbers of enemy and that possibly the well known dissention between Moncada and Sandoval

came to a head. Exact number of dead not known but estimated at no less than 300 on both sides. In the Tijerino stronghold of Chinandega there are indications that Toribio has returned and is responsible for activity calculated to provoke attacks on that town even to extent of forcing active fighting against our marines and ultimate positive intervention. He is said to have brought in arms freely from Honduras where certain officials are repaying him in this way for similar assistance with arms which he gave them some years ago. Might not the question of patrol of entire Bay of Fonseca again be given consideration?

EBERHARDT

817.00/4706a : Telegram

*The Acting Secretary of State to the Minister in Nicaragua
(Eberhardt)*

[Paraphrase]

WASHINGTON, April 15, 1927—6 p. m.

72. For Stimson and Eberhardt: According to reports from the Legation and Admiral Latimer the events of the past few days apparently justify the general conclusion that the Nicaraguan revolution, while not wholly suppressed, has ceased for the time being, at least, to be a serious menace. Perhaps it is too early to conclude that the revolution has collapsed and that Sacasa and his followers may not endeavor to repair their losses, and renew active military operations. Nevertheless, the Department is impressed by the fact that a very decided change has been brought about by the military success of the Nicaraguan Government. The Department feels that this new factor makes pertinent the following observations which are transmitted to you for your consideration.

1. The Stimson mission should not be characterized in any sense as an act of mediation, and the Department believes you should use caution so as not to do anything which might give the mission that appearance. We should suppose that under the circumstances the initiative in getting in touch with the avowed representatives of the revolutionists ought not to be taken by you. Interviews with such representatives should be purely informal. The Department is inclined to think that such interviews should be of their own seeking. The Government of the United States has never recognized even a state of belligerency in that country. One overture looking to a possible negotiation under the protection of the United States the Department has deemed it wise to discourage. On April 13 Am-

bassador Sheffield telegraphed the Department³⁸ that Doctor Zepeda, Chairman of the Nicaraguan Revolutionary Committee in Mexico, has sent word to him indirectly expressing the wish to have an interview with him to discuss a prospective trip to Nicaragua in the hope of being able to confer with Colonel Stimson. Ambassador Sheffield stated that he understood that Zepeda wished to receive guarantees from the Government of the United States that his person would not be molested. Yesterday the Department instructed Ambassador Sheffield as follows:³⁹

"The Department does not consider that the Government of the United States can give any such guaranty as indicated and is not disposed to do so in this case even if it were possible. The Department, therefore, sees no reason why you should have an interview with Zepeda for the purpose indicated in Embassy's 154, April 13, 1 p. m."

2. The Department is not inclined to exert any pressure upon the Government of Nicaragua to give up any advantage it may have obtained as a result of its military operations or to sacrifice any substantial fruit of victory. However, at this juncture it would appear to be the part of statesmanship for the Government of Nicaragua to exhibit reasonable generosity toward the revolutionists, provided they should be disposed to lay down their arms and cooperate in the reestablishment of peace and order throughout the land. A proclamation of general amnesty under these conditions should be considered.

3. The Department fully realizes that the Government of the United States must participate in any permanent arrangement to be effected for the establishment of peace and order, and it is prepared to entertain reasonable proposals on this subject. An adequate number of our marines may have to be maintained in Nicaragua for a time to constitute an effective guarantee of stability if the Government of Nicaragua so requests. The Department hopes, however, that you may eventually discover a way to avoid our assuming the responsibility of supervising an election. The Department assumes that you will afford us an opportunity to deliberate on the subject here before commitments are made to any definite course of future action; but Colonel Stimson has gone to Nicaragua to study the situation, and while the Department makes these suggestions, it would be much influenced by judgments of both of you on the ground.

GREW

³⁸ Telegram No. 154, Apr. 13, 1 p. m.; not printed.

³⁹ Telegram No. 95, Apr. 14, 1 p. m.

817.00/4710 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 17, 1927—5 p. m.

[Received 11:16 p. m.]

102. Stimson mission arrived Managua this afternoon.

EBERHARDT

817.00/4714 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 20, 1927—7 p. m.

[Received April 21—1:10 a. m.]

105. Following from Stimson:

"In the past four days have conferred repeatedly and fully Minister, Admiral, and other military officers also Diaz and several members of Government, with many leading citizens including chief Liberals not now in exile, with American financial advisers and some foreign diplomatic representatives. In view of Department's 72, April 15, 6 p. m., deem it important to give first strong impressions, concurred in by Minister and Admiral, who have approved all statements herein.

First. Military situation. Deem Department overoptimistic as to Diaz power to bring about early peace; has won substantial success but has not destroyed organized rebel forces; even if he should destroy them indications are that protracted guerilla warfare may ensue; Moncada reported as very bitter and determined to continue such warfare in absence of proper settlement. Has not been captured and Government wholly ignorant as to whereabouts and plans. Only \$400,000 left of Diaz present loan⁴⁰ and at present rate of expenditures this will only last 6 weeks, after which Government will have literally no financial means for defense. In short, quite clear that no Nicaraguan leader is able by arms and without United States or other foreign assistance to restore and maintain peace.

Second. Have made it quite clear in all conferences that the United States will not reconsider recognition of Diaz; that all discussion with me must begin with that fact; that to all Americans Diaz is legitimate chief magistrate until end of term 1928. Department need not have slightest concern as to this being fully and universally understood. Have then expressed myself ready to consider and report any suggestions of settlement from any source starting with this initial fact.

⁴⁰ See *post*, pp. 406 ff.

Third. Following this, all with whom I conferred without any exception have stressed the absolute necessity of 1928 election being supervised by United States. Importance and bitterness of Diaz legitimacy arises directly out of fact that in Nicaragua, as in all other Central American countries, Government regularly can and does control result of election. Present Conservative or Liberal control of Government machinery will determine result of 1928 election in favor of respective party unless free election is assured by the United States.

Fourth. Furthermore Washington conferences of 1907⁴¹ and 1923⁴² have made question of free elections very heart of Nicaraguan problem as well as of general Central American problem. Owing to government-controlled elections the only way to accomplish change in party control of Government is by revolution or *coup d'état*. By forbidding latter, Washington conferences have strongly tended to make existing party control permanent and the United States as strongest sponsor of the said conferences becomes target of hatred of opposition. In dealing with Central American situation those conferences have thus treated the symptom and not the disease.

Fifth. While reserving final conclusions, am now strongly impressed that the greatest inducement that can now be offered to Liberal leaders to agree to early peace would be the knowledge that the United States would supervise elections of 1928, exercising sufficient police powers for that purpose. Both the Government and Liberal leaders have spontaneously and without exception indicated to me that they would gladly request such police power. Furthermore, believe that such supervision could be continued with similar consent in subsequent years and thus be made means for gradual political education of Nicaraguans in self-government through free elections. Believe that such action by the United States would appeal far more strongly to both American and Latin American public sentiment than naked military intervention in support of Diaz and against Liberals which may otherwise quite probably become necessary to bring about early pacification of the country. Such a naked military intervention in 1912, with no vigorous attempt to improve political methods of Nicaragua, proved to be wholly barren of permanent political benefit and peace lasted only 25 days after withdrawal of marines. Therefore believe we should endeavor to carry out a more constructive effort now.

Sixth. In the light of personal experience in Tacna-Arica affair,⁴³ am fully alive to dangers and difficulties of supervision of elections

⁴¹ See *Foreign Relations*, 1907, pt. 2, pp. 665 ff.

⁴² See *Conference on Central American Affairs*.

⁴³ See *Foreign Relations*, 1923, vol. 1, pp. 280 ff.

and am studying carefully details and lines of approach with view to limitation of American Executive power, and presenting matter in most favorable light for senatorial and congressional ratification in case that becomes desirable.

Seventh. In view of foregoing, earnestly hope President will not crystallize mind against election supervision until I can report finally. If that possibility excluded, should deem my visit here of comparatively little use. Please show him this cable. Unless immediately notified to the contrary shall assume that request for American supervision of elections made by Nicaraguan Government and leaders of Liberal opposition would be at least most seriously considered by the President. Stimson."

EBERHARDT

817.00/4714: Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, April 22, 1927—noon.

74. For Stimson and Eberhardt: Your telegram number 105 dated April 20, 7 p. m. has been shown to the President.

1. The suggestions contained in Department's telegram number 72, dated April 15, 6 p. m., were made in the light of the military situation as seen by us at that time. Paragraph numbered "First" in your communication modifies in important respects our principal assumption, and stresses the need of a reasonably prompt adjustment.

2. The possibility of a plan of settlement which should involve election supervision is not excluded. Should you finally consider it advisable in order to restore peace and stability in Nicaragua, the President of the United States, at the request of the Government of Nicaragua, would be willing to appoint a commission to supervise the next election. He would also be prepared to retain in Nicaragua such force of marines as might be requested and required for preserving order and guaranteeing stability.

3. The problem should be solved within the limitations of the powers of the American Executive. The Department can see no occasion for entering into any agreement by means of a treaty. The supervision of an election in Nicaragua should be provided for entirely by Nicaraguan laws or decrees. The American Executive, in our view, could act in response to an invitation from the interested party or parties, as in the Tacna-Arica case.⁴⁴

KELLOGG

⁴⁴ See *Foreign Relations*, 1922, vol. I, pp. 447 ff.

817.00/4720 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 23, 1927—11 a. m.

[Received 8:40 p. m.]

107. Following from Stimson:

"Developments of the last two days amply justify the assertion on the military situation expressed in my cipher telegram 105.⁴⁵ While insurgents thus far seem to be avoiding decisive battle they are appearing in larger numbers than anticipated, organized and in good morale, and taking initiative in movement. On the other hand pessimism growing in Diaz circle. The underlying fact in situation is that owing to constant recruitment and desertions from both sides the country is full of armed men and groups of actual or potential bandits. In this sense it is rapidly nearing anarchy and no settlement would be of value which did not begin with general disarmament. Neither side would disarm on faith of other's disarmament alone and the only way it could possibly be peacefully accomplished would be through and presence of marines acting as custodians of arms.

Another important feature is necessity of peace before June in order to secure any crop during coming year.

After repeated discussion with men of both parties Diaz placed yesterday in my hands signed outline of terms of peace to which he would agree to as follows:

1. Immediate general peace in time for new crop and delivery of arms simultaneously by both parties to American custody.

2. General amnesty and return of exiles and return of confiscated property.

3. Participation in Diaz cabinet by representative Liberals.

4. Organization of a Nicaraguan Constabulary on a nonpartisan basis commanded by American officers.

5. Supervision of elections in 1928 and succeeding years by Americans who will have ample police powers to make such supervision effective.

6. Continuance temporarily of sufficient force of marines to make foregoing effective.

Thereafter four prominent Liberals, two being members of Liberal National Party Committee, transmitted to Sacasa through naval wireless following:

General Stimson, personal representative of President Coolidge, is here. We have exchanged impressions with him. He tells me [us] informally and unofficially that after discussing the political situation with Señor Diaz he is confident that Diaz would make a

⁴⁵ *Ante*, p. 323.

settlement on the following basis. Here follow Diaz peace terms as above. The suggested settlement is on the basis of Diaz in office until 1928. With the approval of General Stimson we transmit the following [*foregoing*] to you. Mr. Stimson stated to us that he would be glad to confer in Managua with a representative authorized by you. We request that you reply to us at once as he desires a prompt reply to make to Sacasa [*sic*].

Other Liberals had previously wired Sacasa urging appointment of representative to talk with me. I have been careful to state repeatedly to both sides that I had no authority to promise acceptance of responsibility by President Coolidge. I think it very astonishing if Sacasa will accept Diaz overture but all this will put him on record against what is manifestly and on its face a generous offer.

The chief hope of acceptance lies in fact that this is first time Diaz has offered to disarm on his side, and recognition by Liberals that this protects them against Diaz control of 1928 election. Organization of a Constabulary under temporary American command as well as instruction seems to be absolutely essential to make successful supervision of election possible and could probably be justified within the limits of Executive power by invitation of Nicaraguan Government, passage of Nicaraguan law and general doctrine of good offices as in Tacna-Arica case. Creation of such Constabulary would eventually greatly reduce number of marines necessary to guarantee stability. Presence of naval forces now highly necessary as controlling factor to stabilize situation and make any settlement possible. If they are removed I believe country would break up into anarchy unless dominated by another country. The general distribution of arms is a new factor in situation not present heretofore. If Sacasa refuses to settle I fear only alternative will be between leaving country to such anarchy and a forcible disarmament of the insurgents by the marines. Minister and Admiral concur in this cable. Stimson."

EBERHARDT

817.00/4720 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, April 25, 1927—5 p. m.

75. For Stimson: In your telegram dated April 23 you express doubt as to whether Sacasa will accept peace proposal of Diaz and you intimate that forceful disarming of the insurgents by American armed forces may be necessary. In view of this the Department desires your considered opinion on the following points:

1. Could the insurgents be disarmed and order restored throughout the country by such American forces as are now available in Nicaragua?

2. How long would it take to do this? Do you think that order could be fully restored by June or by December 31 of this year? Is there any likelihood that armed insurgent bands could maintain themselves and thus necessitate intermittent guerilla warfare over an indefinite period?

3. What serious resistance could the insurgents put up against an attempt to disarm them by force?

4. If a policy of forcible disarming should be decided upon by the Department, do you think that an intimation to Sacasa that his refusal to accept the peace terms of Diaz would result in such action on our part, would be effective in inducing Sacasa to accept the offer of Diaz?

Reply as soon as possible.

KELLOGG

817.00/4727 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 26, 1927—noon.

[Received 9:30 p. m.]

109. Your telegram No. 75.⁴⁶ Received following from Stimson:

1. Yesterday⁴⁷ Sacasa agreed to appoint representatives to come to Managua to discuss informally and unofficially with me "the adequate means for a pacific solution of the present conflict." While his message is not entirely satisfactory as to his readiness to compromise question of Diaz legitimacy, his action considerably raises my hope that on arrival of his representatives a settlement may eventually be found possible.

2. This, however, I believe to greatly depend upon maintenance of a firm military attitude by the United States in the face of improving insurgent military position. It now seems reasonably clear that Moncada has probably effected a very considerable concentration not far from Tipitapa and is in position to threaten either Managua or Granada. Diaz forces formerly facing Moncada now reported to have left their positions and withdrawn southward.

3. Admiral has shown me his despatch of yesterday asking authority to hold insurgent advance if necessary at Tipitapa River.⁴⁸ I think his request should be granted. Believe it comes within the scope of general purpose of instructions under which he has been acting. Advance of the insurgents across river would constitute

⁴⁶ *Supra*.

⁴⁷ Sacasa's reply is dated April 24.

⁴⁸ The river flows from Lake Managua to Lake Nicaragua.

serious menace to railroad now guarded by naval forces and also to American and foreign lives and interests in the principal cities of Managua and Granada.

4. From the standpoint of my own efforts at a peaceful solution by settlement, believe such action by Admiral if taken would be decidedly helpful. On the other hand if insurgents are allowed to cross the river not only will peaceful solution on just lines be rendered more difficult but the severities of this brutal and bitter war will be extended into an important area hitherto substantially exempt.

5. In the light of foregoing development of the situation, would answer questions in your telegram 75 as follows: Very prevalent opinion among Nicaraguans that our military attitude thus far represents a covert intention to intervene selfishly on the side of Conservatives but that we are held back from decisive action by vacillating and timid policy. The most responsible Liberal military leaders like Moncada, however, do not desire or intend to fight the United States. On such men the manifestation of a firm policy to give them a fair election in 1928 and for that purpose to now disarm impartially all parties would in my opinion probably terminate organized resistance to our action not later than first contact of the forces. On the other hand think it probable that some guerilla bands would continue active and make trouble for considerable period in the more remote districts. Believe that the more thickly populated districts of west coast probably could be rendered tranquil and protected before July first. Forcible disarmament probably could be accomplished by present forces in this country but could be rendered more speedy and certain by reenforcement of 800 men. If it were authorized within my discretion to intimate to Sacasa the alternative of forcible disarmament, believe it would facilitate chance of settlement particularly if it were backed by simultaneous or previous announcement from military commander, when necessary, that insurgents would not be allowed to cross river. Whatever effect upon Sacasa, believe it would greatly affect many of his more practical military associates.

6. Minister and Admiral concur; and detailed answers to your questions by Admiral Latimer after full consideration by him with General Feland,⁴⁹ upon which foregoing summary largely depends, follow as part 2.⁵⁰

7. Strongly suggest that Department hereafter use less complicated code in view of rapidly changing situation and necessity of prompt and accurate information. Stimson."

EBERHARDT

⁴⁹ Gen. Logan Feland, commanding Second Brigade, U. S. Marine Corps.

⁵⁰ See telegram *infra*.

817.00/4728 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 26, 1927—3 p. m.

[Received 8:55 p. m.]

111. Following part 2 from Stimson:⁵¹

"Admiral Latimer's answers to questions of Department:

Answer to question 1. It is my opinion that it would be possible but with a somewhat larger force it could be done with greater celerity and the mere publishing of orders of additional forces to Nicaragua would by its moral effect facilitate disarmament.

Answer to questions 2 and 3. A categorical answer cannot be given to these questions as such answer depends on many unknown factors. The rainy season usually begins about the 15th of May and lasts until about the 10th of November making operations throughout the country increasingly difficult. Moncada, Sacasa and Espinosa⁵² have informed me personally, and Moncada has also publicly stated, that they would not undertake to fight the United States. Wasmer and some of the other leaders are reported to have said the same thing. Leaders like Sandoval, Sandino, Escamilla, Mueller and Cabulla are far better off as insurgents than they are in time of peace. In view of all of the above and of the liberal terms offered by the Government it is not believed that continued organized cohesive resistance by any large force will long exist and probably not beyond June or July. Nevertheless it is my opinion that it is more likely—

(a) That marauding bands would be able to maintain guerilla warfare for a considerable period than

(b) That complete order would be restored by June or July.

Question 4 is sufficiently answered in part 1. Stimson."

EBERHARDT

817.00/4729 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 27, 1927—10 a. m.

[Received 1:30 p. m.]

112. Espinosa, Argüello, and Cordero Reyes⁵³ designated by Sacasa to confer with Stimson, left Puerto Cabezas this morning at 6 o'clock on the destroyer *Preston*. They should arrive at Managua, Saturday or Sunday.⁵⁴ Stimson would be glad to be fully informed as to authority discussed in his telegram 109⁵⁵ before their arrival.

EBERHARDT

⁵¹ See telegram, *supra*, for part 1.

⁵² Dr. Rodolfo Espinosa, Minister for Foreign Affairs in the Sacasa regime.

⁵³ Dr. Leonardo Argüello, Minister of Gobernación, and Dr. Manuel Cordero Reyes, private secretary to Dr. Sacasa.

⁵⁴ i. e., April 30 or May 1.

⁵⁵ *Ante*, p. 328.

817.00/4727 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, April 27, 1927—6 p. m.

79. For Stimson: Your telegram number 109, dated April 26, noon.

1. With regard to intimating to Sacasa or his representatives that forcible disarming may prove to be an alternative to a settlement by negotiating, you are authorized to use your own discretion.

2. The same authority is given you with regard to announcing that the insurgents will not be allowed to cross the Tipitapa River.

3. The Department of the Navy is communicating directly with Admiral Latimer on the question of reinforcements in the event that forcible disarming becomes necessary.

KELLOGG

817.00/4736 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 29, 1927—noon.

[Received 8:25 p. m.]

116. Following from Stimson:

"Please inform President:

1. Sacasa conferences [*conferees*?] expected Corinto today at 1 o'clock, will be brought here by special train, conference probably begins tomorrow. Navy deserves great credit for speed of transit.

2. With Minister visited Leon, principal Liberal center, yesterday. Conferred with prominent Liberals some of whom came from hiding to meet us. Warned Conservative officials against harsh action pending conference. Arranged for several reasonable Liberal leaders to meet Sacasa conferees on train.

3. Government military situation undoubtedly bad. After being amply furnished with men and munitions Government generals not only failed to push home initiated advantage of 3 weeks ago but have allowed Moncada to concentrate a probable equal force and take initiative. Complete incompetence or treachery or both indicated. Moncada though probably short of ammunition now in position to threaten river crossing, although Government soldiers still fighting well on the defensive.

4. Admiral has perfected plans to protect crossing and prepared announcement to Moncada to be used if necessary endeavoring to avoid if possible anything in the nature of threat during conference.

5. Diaz has behaved well consistently and is evidently willing to

entirely subordinate his own personal interests to a constructive peace program. So far as I can see no other equally intelligent and conciliatory substitute for him could be found even if desired. No such thing as an impartial Nicaraguan between the two parties exists although both clamor for one.

6. In conclusion we have on our side, first, the general desire for a fair solution of the party deadlock in 1928, coupled with a constructive program for future political fiscal improvement under American supervision which both parties approve of and desire, and third, in reserve, American military power. Against us there are, first, the bitterness naturally engendered among certain Liberals by the war, second, the general resentment against the Chamorro *coup d'état*⁸⁸ which has crystallized against Diaz as its beneficiary and, third, a well led insurgent force which undoubtedly believes it can win the war unless blocked by us. Minister and Admiral concur. Stimson."

EBERHARDT

817.00/4736 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, April 30, 1927—noon.

80. For Stimson: Your telegram number 116, dated April 29, noon. Public opinion in this country has high hopes of the success of your mission. Failure to reach some sort of a settlement at this time would be generally deplored. That section of the press which up to the present time has opposed our Nicaraguan policy is supporting your efforts and appears to be ready to endorse any reasonable settlement you can make. In these circumstances it seems to be extremely important that early discouragements should not be allowed to result in breaking up the conference. You should use every possible means to keep up the negotiations until every expedient is exhausted. The President is anxious for you to remain as long as any hope exists for an adjustment. In our judgment even the elimination of Diaz as a last resort and the selection of another person as Constitutional President, pending the holding of an election, should not be excluded as a possibility. The President wants you to know that you have the widest discretion in handling the entire situation.

KELLOGG

⁸⁸ On Oct. 5, 1925, General Chamorro seized the fortress dominating the city of Managua. See *Foreign Relations*, 1925, vol. II, p. 639.

817.00/4741: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 30, 1927—noon.

[Received 4:25 p. m.]

117. Following from Stimson:

"New Minister Foreign Affairs of Salvador evidencing persistent desire to intrude into my unofficial negotiations with Sacasa conferees. He seems to be making progress in enlisting other Central American countries, viz. Guatemala and Costa Rica. Sacasa conferees have not yet brought up question but we think that situation contains risk. Can you take steps in Washington to head it off? Stimson".

EBERHARDT

817.00/4743: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 1, 1927—9 p. m.

[Received May 2—10:55 a. m.]

119. [From Stimson:] Held a conference with Sacasa delegates yesterday and today. Our position has been fully stated. In their reply they have expressed acquiescence fundamental propositions but reserved all commitments until they have communicated with Moncada, which Admiral is arranging. General atmosphere friendly and I believe encouraging. Stimson.

EBERHARDT

817.00/4741: Telegram

The Secretary of State to the Minister in Salvador (Caffery)

[Paraphrase]

WASHINGTON, May 2, 1927—11 a. m.

14. The following telegram has just been received from the Minister in Nicaragua:

[Here follows *en clair* the text of telegram No. 117, April 30, 1927, noon.]

You may say informally to the Foreign Minister that Colonel Stimson has gone to Nicaragua as the President's personal representative to investigate the situation, to make a report to the Government of the United States, and to use his influence in any proper way to aid in bringing about a peaceful solution of present difficulties in Nicaragua. Accordingly, the Government of Nicaragua and the representatives of the revolutionists have taken this occasion to attend a peace conference

in Managua while Colonel Stimson is there. It is the hope of the Department that a way will be found to arrange a peace by means of a friendly agreement at this conference.

The time which Colonel Stimson can take from his private affairs is limited. Consequently, anything which can delay the peace negotiations will render it impossible for him to remain until the conference closes.

Although the Department of State appreciates the high motives which inspired the Foreign Minister of Salvador to suggest that the Governments of the Central American Republics exercise their good offices in cooperation with Colonel Stimson, nevertheless, it feels that the introduction of any new element into the negotiations at the present time would have a tendency to complicate the situation rather than aid in a rapid settlement of the Nicaraguan question. Discreetly and tactfully point out to Mr. Guerrero that if action of his Government should prevent or postpone the conclusion of an agreement between the contending factions in Nicaragua, the responsibility for such a result must rest with him.

KELLOGG

817.00/4744 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 2, 1927—11 a. m.

[Received 2:36 p. m.]

120. Following from Stimson:

"Please inform the President. I deeply appreciate discretion granted me and shall not hesitate to use it when necessary. Desire, however, that he should have advance information of crises so far as they can be forecast in order that he may instruct me when he desires. Our negotiations with Sacasa delegates have been exceptionally frank and cordial and they have recorded themselves as in thorough sympathy with the fundamental elements of settlement stated in my telegram number 107, April 23, 11 a. m., and agreed to by Diaz, excepting of course retention of Diaz as to which they have made no commitment whatever although Cordero Reyes has announced Sacasa's readiness to step aside. While hopeful of settlement I yet deem it quite possible that official and army pressure may force them to make final issue on this point. Have sent American officers today to Moncada to arrange conference with me if possible or at least to bring his views to Sacasa delegates as to this settlement. Whether he comes or refuses, crisis may be precipitated al-

most immediately and it may become necessary for me to threaten forcible disarmament of insurgents. In view of statement in your number 80⁵⁷ as to possible elimination Diaz as a last resort, I desire President to clearly understand my views on that subject. In your numbers 74⁵⁸ and 80 President expresses a hope for settlement to be worked out under Nicaraguan law and constitution with which I emphatically concur. I deem retention of Diaz practically necessary for adoption of such constitutional method. Our settlement plan would make President a mere figurehead so far as Executive power is concerned. This has been and will be explained to Liberals. Diaz will accept this limitation on his powers and cheerfully and loyally cooperate with execution of plan. After careful consideration we know no other Nicaraguan whom we could trust to so cooperate. Furthermore, selection of substitute would probably involve grave party and personal difficulties. In short, after two weeks investigation and most careful reflection I do not believe Diaz could be safely eliminated unless in favor of a provisional American executive which would involve legal and constitutional difficulties. Minister and Admiral emphatically concur and I request you show Eberhardt's telegram number 23, January 23, noon,⁵⁹ the statements in which are amply confirmed by my own investigation, to the President. For these reasons I favor insistence upon retention of Diaz as a necessary element of our plan, although we of course will loyally follow any different instructions should the President from his broader viewpoint, decide to give them to us. Stimson."

EBERHARDT

S17.00/4744 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, May 3, 1927—1 p. m.

82. For Stimson: Your telegram number 120 dated May 2, 11 a. m. Our attitude on this subject has not changed since conference with you at Washington. Penultimate sentence in Department's telegram number 80, dated April 30, 1927, noon, was intended merely to increase your discretionary authority in case you should determine after an investigation on the ground that the withdrawal of Diaz in favor of another person might be worthy of consideration.

KELLOGG

⁵⁷ *Ante*, p. 332.

⁵⁸ *Ante*, p. 325.

⁵⁹ Not printed.

817.00/4750 : Telegram

The Minister in Salvador (Caffery) to the Secretary of State

[Paraphrase]

SAN SALVADOR, May 3, 1927—1 p. m.

[Received 5:20 p. m.]

29. With reference to the Department's 14, May 2, 11 a. m., Foreign Minister in personal conversation today definitely promised to drop entire scheme for Central American interference in Nicaragua.

Repeated to missions in Costa Rica, Honduras, and Nicaragua.

CAFFERY

817.00/4749 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 3, 1927—2 p. m.

[Received 5:28 p. m.]

121. Following from Stimson:

"For the President. Moncada is to meet Sacasa delegates, Minister, Admiral and myself at Tipitapa⁸⁰ early tomorrow morning. Truce for 48 hours has been agreed upon for that purpose. Deem it quite possible they will refuse consent to settlement based on retention of Diaz but from the best of our information their subsequent opposition will be largely perfunctory for the purpose of showing their followers and outside supporters that they yielded only to force. Have received no reply to my number 120⁸¹ and in the absence of such reply expect to use my discretion to insist on retention of Diaz. Stimson."

EBERHARDT

817.00/4749 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, May 4, 1927—2 p. m.

83. For Stimson: Your telegram 121, May 3, 2 p. m. Should the peace proposals of the Constitutional Government be rejected by the revolutionists, the negotiations suspended, and the United States obliged to resort to forcible disarmament, the United States would not stand committed even to supervise the elections of 1928. Such is the understanding here.

⁸⁰ A small village on the river of the same name connecting Lake Managua with Lake Nicaragua, then one of the outposts of the Conservative forces.

⁸¹ Ante, p. 334.

If you concur, this point should possibly be made clear to the representatives of Sacasa since they may think they can count upon obtaining through the Government of the United States the same guarantees after bringing about a forcible disarmament as they might obtain if they made peace now. If these negotiations fail, it is the feeling of the Department that there should be no implied commitments as a result, and that the United States should be absolutely free to determine its policy as if there had been no negotiations.

KELLOGG

817.00/4753 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 4, 1927—4 p. m.

[Received May 5—12:02 a. m.]

122. Following from Stimson:

"Strictly confidential for the President. Moncada came to Tipitapa last night escorted by naval detail sent out Monday²² by Admiral Latimer. His coming to see me was opposed by his generals, and naval detail deserves special credit for persuading him to come. Early this morning with the Minister and Admiral I took Sacasa delegates to Tipitapa and permitted them to confer with Moncada. Afterwards he and I conferred alone. He admitted that neither he nor Government could pacify country without help of the United States, but insisted that in honor of the dead of his army who had fought so long against retention of Diaz he could not consent to a settlement involving such retention. He stated frankly however that he approved all the other terms of proposed settlement. He also frankly told me that he would not oppose the United States troops if we had determined to insist on Diaz issue. I then told him I was authorized by the President to insist on retention of Diaz as essential to the plan for a supervised election and was authorized to state that forcible disarmament would be made of those unwilling to lay down their arms. He agreed to recommend to his troops that they should yield and for this purpose I gave him at his request the following letter addressed to him:

'Confirming our conversation of this morning, I have the honor to inform you that I am authorized to say that the President of the United States intends to accept the request of the Nicaraguan Government to supervise the elections of 1928; that the retention of President Diaz during the remainder of his term is regarded as essential to that plan and will be insisted upon; that a general disarmament of the country is also regarded as necessary for the proper and suc-

²² May 2.

cessful conduct of such election; and that the forces of the United States will be authorized to accept the custody of the arms of those willing to lay them down including the Government and to disarm those who will not do so.'

Sacasa delegates were then called into conference and in presence of Minister and Admiral, I made same statement as to Moncada. After private conference they announced that they would recommend to Sacasa that no resistance be offered to United States forces. Truce has been extended until Saturday noon.⁶³ Orders have been issued to Government troops to withdraw from contact with insurgent forces and retire south of Tipitapa River. American forces will then be interposed along the line of the Tipitapa River in position to receive arms of both sides. Moncada will then make announcement to his troops and endeavor to secure the voluntary disarmament of as many as possible. Am endeavoring to maintain absolute secrecy as to situation in order not to render more difficult Moncada's task. Please make no announcement until further notice. Shall cable preliminary report on my action probably tomorrow to be available for public announcement when desired. While there will probably be resistance by small irreconcilable groups and scattered bandits, I believe that there will be no organized resistance to our action. I believe, however, that the Admiral should be at once specifically authorized to take all military steps necessary. Stimson."

Eberhardt

817.00/4754: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 4, 1927—7 p. m.

[Received 10:50 p. m.]

123. Following from Stimson:

"Your 83 received since my telegram 122,⁶⁴ which will make clear the impossibility of taking a position as you suggest. Supervision of 1928 elections has been throughout my negotiations, as my despatches must have clearly revealed, the chief constructive proposition about which I have been able to rally the support of all elements and by reason of which Moncada and Sacasa delegates, although they have not formally agreed to settlement, are trying to persuade their followers to a peaceful submission and general peace. To now repudiate that offer would in my opinion be unthinkable and a moral if not a technical breach of faith on the part of the United States. Stimson."

Eberhardt

⁶³ May 7.

⁶⁴ *Ante*, pp. 336 and 337.

817.00/4759 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 5, 1927—11 a. m.

[Received 11:35 p. m.]

124. Following from Stimson:

"Following preliminary report to be available for use of President in announcing result of my negotiations. To be released for publication tomorrow if desired. Expect to remain here several days watching results and preparing certain necessary papers; then home possibly stopping Puerto Cabezas to see Sacasa. President Diaz has formally requested through me that the United States should supervise the coming Nicaraguan elections of 1928 with the purpose of making them free and fair and entirely beyond the influence or control of the Nicaraguan Government. My investigation has shown that this evil of Government domination of election lies and has always lain at the root of the Nicaraguan problem. Owing to the fact that a government once in power habitually perpetuates itself or its party in such power by controlling the election, revolutions have become inevitable and chronic, for by revolution alone can a party once in control of the Government be dispossessed. All persons of every party with whom I have talked admit the existence of this evil and its inevitable results and all of them have expressed an earnest desire for the supervision of election by the United States in an attempt to get rid of the evil forever.

To make this offer effective President Diaz proposes the creation by Nicaraguan law of an electoral commission to be controlled by Americans nominated by the President of the United States and offers to turn over to this board the entire police power of the State. This is to be accomplished through the organization of a nonpartisan constabulary under the instruction and command of American officers. He further offers to disband his army and to deliver their arms to the custody of the United States. He offers an immediate general peace in time for planting the new crop in June; a general amnesty to all persons in rebellion or exile and a return of all occupied or confiscated property to the owners thereof. To insure order during the organization of the constabulary he asks for a continuance in Nicaragua of a sufficient portion of the present naval force. Finally, in order to secure to his Liberal opponents a share in the Government during the intervening period before the election, he offers to create a coalition cabinet in which their leaders shall share.

I have consulted men representing all factions of the Liberal Party and they have unanimously and emphatically approved the plan for a supervised election in 1928 as the key to the solution of the present

gence in his conduct of government and great magnanimity to his foes. His present plan offers continued proof of both these characteristics. Cooperation by the Nicaraguan Government with our representatives in carrying out such a plan for a supervised election is vital. We are sure of it under Diaz; we should not be sure of it under any substitute whose name has been suggested to me. Moreover any attempt by the Nicaraguan Congress to elect a substitute for Diaz under the forms of Nicaraguan law would almost certainly in the present situation become the occasion of further bitter factional strife. Although Diaz has been subjected to a bitter press campaign of slander both in Central America and the United States, he is personally popular with the Liberal leaders and many of these have frankly stated to me that he was the most acceptable Conservative for the Liberal Party to have in the Presidency. We have formally announced our recognition of his Presidency to the world and have been followed by other nations both in Central America and Europe. In January, we formally notified Sacasa that even if he were successful in this war, being a revolutionary government, we could not recognize him and should continue to recognize the Diaz Government until the close of its term. To change now this position taken deliberately and in good faith and continued for so long, would inevitably so impair our reputation for consistency and fidelity as to greatly weaken our power to carry out the present plan to give Nicaragua fair elections and to stabilize her government. In all these conclusions Minister Eberhardt and Admiral Latimer, the American civil and naval representatives on the spot, emphatically concur. I told Moncada that I was authorized to say that the President intended to accept the request of the Nicaraguan Government to supervise the election of 1928; that the retention of President Diaz during the remainder of his term was regarded as essential to that plan and would be insisted upon; that a general disarmament was also necessary for the proper conduct of such election and that our forces would be authorized to accept the custody of the arms of the Government and those others willing to lay them down and to disarm the others. He at once yielded to that statement as did the Sacasa delegates when called in. I gave Moncada a letter to that effect⁶⁶ to use in persuading his troops to disarm and steps are now being taken to draw the combatant forces apart and to place the American troops between them in order to receive the arms of both. A truce until Saturday⁶⁷ has been declared for that purpose. This morning after further conference with Moncada I now believe it probable that he and most of the insurgent leaders will actively

⁶⁶ Quoted in telegram No. 122, May 4, 4 p. m., from the Minister in Nicaragua, p. 337.

⁶⁷ May 7.

cooperate in the pacification and government of the country. I am thus hopeful that except for the action of small groups of irreconcilables and bandits, this horrible and bitter war is over and will be followed by an intelligent and constructive plan for the political and economic reconstruction of the country. Each of the foregoing steps has been taken with the help and approval of Minister Eberhardt and Admiral Latimer without whose devoted cooperation the result would have been impossible. Stimson."

EBERHARDT

817.00/4754 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, May 5, 1927—noon.

84. For Stimson: Your 122, May 4, 4 p. m. and 123, May 4, 7 p. m. have been received and shown to the President. The Navy is transmitting necessary instructions to Admiral Latimer.

KELLOGG

817.00/4763 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 6, 1927—1 p. m.

[Received 9:55 p. m.]

125. Following from Stimson:

"Yesterday Diaz proclaimed immediate general amnesty to all political prisoners and exiles, also proclaimed freedom of the press to become effective when disarmament proceeds. Moncada has suggested and Diaz agreed to appointment of Liberal *jefes politicos* in six Liberal departments. Other conciliatory steps under consideration. Believe eventual result will be a *de facto* though not a formal settlement between Diaz and his opponents. Moncada returns to his army this afternoon. Nearly all Government troops are now south of Tipitapa River which is being held by Americans, insurgents remaining in former position to the north."

EBERHARDT

817.00/4764 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 7, 1927—10 a. m.

[Received 5:35 p. m.]

126. Following from Stimson:

"President Diaz yesterday afternoon took steps looking towards the restoration of the legal constitution of the Supreme Court⁶⁸ as it stood

⁶⁸ See *post*, pp. 389 ff.

prior to the illegal changes by Chamorro. Political situation remains tranquil and it is improving and there has been no change in military situation. Moncada has returned to his army and I expect to hear soon satisfactory report as to their coming disarmament. The only discordant voices are those of the small number of members of revolutionary government who have lost their jobs and who through their well organized press are seeking to give an entirely false impression that peace effort had failed. May I respectfully suggest that Department should act promptly in strong public presentment of the true situation and should thus take the leadership of American public opinion unless it has already done so. I am refraining from public statement until I receive some word of Department's or President's approval of my action."

EBERHARDT

817.00/4766 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 8, 1927—5 p. m.

[Received 10:30 p. m.]

129. Following from Stimson:

"On May 5th Moncada and Admiral made written memorandum as to arrangements agreed upon with Eberhardt and myself for disarmament which contained the following provisions:

'General Moncada returns to his army to undertake to disarm his troops and will so disarm all his men insofar as it may be in his power. When ready to turn over arms he will notify Admiral Latimer who will send a commission to take custody of such arms and ammunition. This Moncada will try to do within 8 days.'

Moncada also undertook to keep me informed as to progress he was making with his army. Today I have received a telegram from Moncada which leads me to believe that he has the situation well in hand but will probably require the full 8 days for disarmament. Under same agreement he is to be given by the Nicaraguan Government through us certain supplies, clothing and \$10 for each rifle turned over. Arrangements have been completed for such delivery when time expires. As Moncada army is isolated by at least 20 miles from Tipitapa River which is being held by Americans with all Government forces on this side of that river the situation seems secure against accidental clashes or bloodshed except such as may arise from marauding bands in other portions of the country. Moncada informed us today he has all his troops with him.

Yesterday and today I had long conferences with Sacasa delegates. While maintaining position that Liberals will not accept office under

Diaz and therefore will not join Cabinet Ministers, they have assured me that Liberals will cooperate in Congressional by-elections in certain districts this year and will also accept positions necessary for holding 1928 elections or necessary for future reconstruction of country. Stimson."

EBERHARDT

817.00/5382½

General Sandino to General Moncada ⁶⁹

[Translation]

EL CACAO DE LOS CHAVARIAS, *May 9, 1927.*

ESTEEMED GENERAL: I take pleasure in informing you that having arrived at this place I have found myself in a difficult position due to the fact that all of my followers have not joined me, since I have found but a few chiefs, the rest of my troops having gone to Jinotega, the place from whence they came. For this reason I feel that my remaining at this place will avail me nothing, all of my followers having disbanded.

I have decided to go to Jinotega again to assemble my men, in order to collect all the arms. In this case I shall remain there awaiting your orders.

I likewise delegate my rights in order that you may arrange the matter as may suit you best, informing me of the results at Jinotega, which I shall occupy with my troops.

The disbanding of my men is due to their not finding anything to eat and for this reason they have left. However, I assure you that as soon as I arrive they must all come where I am and then I shall collect all the arms.

Your affectionate coreligionist and friend,

A. C. SANDINO

817.00/4866

*Notice Issued by the Commander of the Special Service Squadron
(Latimer)* ⁷⁰

The Government of the United States, having accepted the request of the Government of Nicaragua to supervise the election in the latter country in 1928, believes a general disarmament of the country necessary for the proper and successful conduct of such election and has directed me to accept the custody of the arms and ammunition of

⁶⁹ This letter was sent by General Moncada to Col. Henry L. Stimson, Dec. 5, 1927, and in turn transmitted to the Department by Colonel Stimson as an enclosure to his letter of Feb. 8, 1928.

⁷⁰ Transmitted to the Department by the Minister in Nicaragua as an enclosure to his despatch No. 413, May 12, 1927; received May 24.

those willing to place them in my custody, including the arms and ammunition of the forces of the Government, and to disarm forcibly those who do not peaceably deliver their arms.

The Government of Nicaragua has expressed its willingness to deliver the arms under its control and I have directed that such arms of the Government be accepted for custody in the same proportion that arms are delivered by the forces opposing the Government.

The Nicaraguan Government has granted general amnesty to all political and armed opponents. To facilitate the return to peaceful occupations of those who have heretofore opposed it that Government will pay 10 cordobas to each and every individual delivering a serviceable rifle or machine gun to the custody of the United States forces. Amnesty and protection are assured to such individuals by the Nicaraguan Government and by the forces under my command.

To avoid the regrettable and useless shedding of blood all individuals and leaders of groups, now having in their possession or in hiding serviceable rifles, machine guns or ammunition or who know of the location of such munitions as may be hidden, should immediately deliver them to the custody of the nearest detachment of the American forces. Upon such delivery payment of 10 cordobas will be made, in the presence of a Commission of United States officers, for each serviceable rifle or machine gun so delivered.

Managua, May 10, 1927.

J. L. LATTIMER

817.00/4866

*The Personal Representative of the President of the United States
in Nicaragua (Stimson) to General Moncada*²

TIPITAPA, May 11, 1927.

DEAR GENERAL MONCADA: I am glad to learn of the authority that has been placed in you by your army to arrange for a general disarmament. I am also glad to make clear to you and to your army the attitude of the President of the United States as to this matter. In seeking to terminate this war, President Coolidge is actuated only by a desire to benefit the people of Nicaragua and to secure for them a free, fair and impartial election. He believes that only by such free and fair elections can permanent peace be secured for Nicaragua. To insure this in 1928 he has consented to the request that American representatives selected by him shall supervise the election. He has also consented to assign American officers to train and command a non-partisan national constabulary for Nicaragua which will have the duty of securing such a fair election and of

² Copy transmitted to the Department by the Minister in Nicaragua as an enclosure to his despatch No. 413, May 12, 1927; received May 24.

preventing any fraud or intimidation of voters. He is willing also to leave in Nicaragua until after the election a sufficient force of marines to support the work of the constabulary and insure peace and freedom at the election.

As further evidence of the good faith of the American Government and of the present Nicaraguan Government in this matter, I am glad to tell you what has already been done. It will answer the questions contained in the letter of your soldiers which you have shown me. General amnesty has already been granted by the President of Nicaragua. I have recommended to President Diaz that the Supreme Court be reconstituted by the elimination of the illegal judges placed in that court under Sr. Chamorro. President Diaz has already called upon these judges for their resignations and I believe that these resignations will be obtained. I have already advised that the Congress be reconstituted by holding of special elections in these Liberal districts where elections were not held in 1926 under conditions which will insure that the Liberal voters will be amply protected in their rights. I have also recommended that members of Congress illegally expelled by Sr. Chamorro whose terms have not yet expired be reinstated. I have been assured that this will be done.

I have recommended that Liberal *Jefes Politicos* be appointed in the six Liberal districts of Bluefields, Jinotega, Nueva Segovia, Esteli, Chinandega, and Leon. I have been assured that this will be done.

In short, I have recommended that steps be taken so far as possible to restore the political condition as it existed in Nicaragua before the Chamorro *coup d'État* and I believe that so far as possible it will be done.

I hope that these steps will assure you and your army of the fairness of the United States Government and its desire to see peace, justice and freedom re-established in Nicaragua without any unfairness or favoritism towards any party but being regardful of the rights of Liberals and Conservatives alike.

Very respectfully yours,

HENRY L. STIMSON

817.00/4773 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 11, 1927—9 p. m.

[Received May 12—1:03 a. m.]

131. Following from Stimson:

"With Minister Eberhardt, Admiral Latimer and General Feland, have had a second conference today with Moncada and one of his gen-

erals at Tipitapa. I believe we have concluded satisfactorily the final details for the disarmament of the insurgent army which is expected to be completed in two days after which I am invited to meet personally and address it at Las Banderas on Saturday."⁷²

EBERHARDT.

817.00/4775 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 12, 1927—9 p. m.

[Received May 13—9:40 a. m.]

133. Following from Stimson:

"At 4:30 this afternoon I received the following telegram from Boaco:

"The military chiefs of the Constitutionalist Army assembled in session today have agreed to accept the terms of the declaration made by General Henry L. Stimson, personal representative of President Coolidge of the United States and consequently have resolved to lay down their arms. They hope that there will be immediately sent to receive these arms sufficient forces to guarantee order, liberty and property."

Signed by Moncada and 11 generals including all his prominent chiefs except Sandino. I am informed that latter agreed to sign but broke his word and with small band of men left Moncada. I believe this marks definitely the end of the insurrection. Trucks with escort of marines left this morning to receive the arms.

Colonel Robert Rhea of Marine Corps was appointed today Chief of the Constabulary and has begun work of organization. After visiting Moncada's army Saturday⁷³ and arranging as far as possible with Diaz Government the immediate program of conciliation and reconstruction I hope to sail for home Monday via Key West."

EBERHARDT

817.00/4781 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 15, 1927—9 p. m.

[Received May 16—11:52 a. m.]

134. Following from Stimson:

"The civil war in Nicaragua is now definitely ended. Nearly all the Government troops and practically the entire insurgent army of Moncada have been disbanded and substantially all of their arms have been turned over to our custody. We have received thus far 6,200 rifles, 272 machine guns and 5,000,000 rounds of ammunition. There has been very little disorder and not a single American shot

⁷² May 14.

⁷³ May 14.

has been fired against the organized forces of either side. Among the Nicaraguans themselves bloodshed has substantially ceased since our actions of May 4th.

There also seems less danger of banditry and guerilla warfare than I at first feared. Even Cabulla, the guerilla chief of Chinandega, has notified us that he would follow the lead of Moncada and turn over his arms. The troops of both sides after giving up their arms are hastening to their homes so as to be in time for the planting of this year's crops and the resumption of their peace time occupations. This result has been accomplished by the faith of both sides in our promise to supervise the elections of 1928 and to give both sides a free and fair election. This was well expressed by Moncada in his final conference with me on May 11th when he formally made the following statement:

'The Liberals cannot believe that the Government of the United States through the personal representative of President Coolidge will give a promise which it will not fulfill. Once again the Liberals place their confidence in the United States. The leaders of the army will try to convince their men that this promise of fair elections will be fulfilled. The central point which the army wishes to be assured of is that the United States will do its best to give Nicaragua a fair election in 1928.'

I believe that our action meets general approval among the thinking men and women of Nicaragua irrespective of party. Evidence of this is apparent on every side. Almost the only malcontents are the extremely small group of personal associates of Sacasa, who, through their well organized press bureaus in Mexico, Costa Rica, Guatemala and the United States, have sought to convey an entirely false impression of the situation. The views of these men who have done no fighting for their cause carry little weight in Nicaragua. The fighting men of the insurgent army have taken a truer and more generous view of our action and are preparing to cooperate in the future work. In this work of conciliation and reconstruction the Diaz Government has taken an encouraging lead. Amnesty was declared even before the troops were disarmed and pledges have been given to restore the courts and the Congress to the status existing before the Chamorro *coup d'état*. There has also been promised the appointment of Liberal local officials in the Liberal provinces. I am bringing with me the formal request of the Government for American supervision at the 1928 election.⁷⁴ I believe that the way is now open for the development of Nicaragua along the lines of peace, order and ultimate self-government."

EBERHARDT

⁷⁴ See note of President Diaz to President Coolidge, May 15, 1927, p. 350.

817.00/4782 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 16, 1927—11 a. m.

[Received 1 p. m.]

135. Mr. and Mrs. Stimson and Dawson left here for Corinto this morning. Will sail this afternoon U. S. S. *Trenton* for Hampton Roads.

EBERHARDT

817.00/4858 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 21, 1927—11 a. m.

[Received 2:04 p. m.]

139. Sacasa with 26 followers left last night for Puerto Limon on steamship *Wawa*. They may be expected to be joined by Nicaraguan Liberals there and to combine in efforts to embarrass the Diaz Government.⁷⁵

Repeated to Costa Rica.

EBERHARDT

817.00/4867 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 26, 1927—3 p. m.

[Received 9:40 p. m.]

141. Admiral Latimer, General Feland and the American forces in Nicaragua deserve highest praise for having effected a wonderful disarmament with minimum of friction or bloodshed. To date American forces have received 11,600 rifles, 303 machine guns and five and a half million cartridges, of which the Liberals turned in over 3,000 rifles, 26 machine guns and one and a half million cartridges.

June 6th will probably be set as the last date upon which payment will be accepted for delivery of arms, after which any person found with them in their possession will be punished by Nicaraguan law.

General Sandino is the only remaining revolutionary leader of consequence who has refused to lay down his arms. He is headed

⁷⁵By a decree issued at Puerto Cabezas, May 20, 1927, Dr. Sacasa announced the termination of his regime, organized in that neighborhood Dec. 1, 1926 (file No. 817.00/4918).

for the Honduran boundary with about 200 followers including 60 Hondureans. He left San Rafael May 24 for Yali headed probably for Dipilto and Danli.⁷⁸ Besides arms he has several hundred mules.

Repeated to Tegucigalpa.

EBERHARDT

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF
ELECTIONS IN NICARAGUA ⁷⁹

817.00/4902

*President Diaz to President Coolidge*⁷⁸

MANAGUA, May 15, 1927.

EXCELLENCY: In order that the elections which under the constitution of Nicaragua are to be held in October, 1928, for the purpose of electing a President of the Republic and members of its National Congress shall be free, fair, and impartial and not open to fraud or intimidation practiced by any of the parties contending at such election upon each other, the Government of Nicaragua requests the President of the United States to lend to it its assistance and good offices in insuring such an election. To this end, the Government of Nicaragua requests the friendly assistance of the President of the United States in preparing a proper election law in Nicaragua, in securing supervision by impartial Americans over the actual conduct of the elections, in securing American assistance to train and direct an impartial and non-partisan force of constabulary to secure law and order and prevent intimidation of voters and to in other ways secure American assistance in tranquillizing the sorely disturbed condition of the country so that such election can be fairly held.

I have the honor to submit a memorandum showing the steps which my Government suggests may be desirable or appropriate to be taken in order that the President of the United States may be able adequately to perform this great service to the Republic of Nicaragua, should he be willing to do so. The Government of Nicaragua will gladly consider the taking of any other steps on its part which may be suggested by the President of the United States as essential or desirable for the accomplishment of that purpose.

Believe me [etc.]

ADOLFO DIAZ

⁷⁸ In Honduras.

⁷⁹ See also pp. 285 ff., especially telegram No. 124, May 5, 11 a. m., from the Minister in Nicaragua, p. 339. For previous correspondence concerning supervision of elections in Nicaragua, see *Foreign Relations*, 1924, vol. II, pp. 487 ff.

⁷⁸ This letter was brought to the United States by Col. Henry L. Stimson, personal representative of President Coolidge in Nicaragua, and was received in the Division of Latin American Affairs, June 4, 1927.

[Enclosure]

Memorandum as to Suggested Steps To Be Taken Looking Towards the Holding of a Free, Fair, and Impartial Election in Nicaragua in October 1928, With the Assistance of the President of the United States and Under the Supervision of American Officials Suggested by Him

ENACTMENT OF AN ADEQUATE ELECTION LAW

(1). The President of the United States may select an expert in matters of election law to advise him as well as the Nicaraguan Congress as to a proper electoral law to be enacted by said Congress in order to provide the means and method by which the assistance of impartial American advice and supervision can be rendered for holding Nicaraguan elections. The salary and expenses of this expert shall be borne by the Nicaraguan Government.

(2). While reserving to the President of the United States, through this expert or otherwise, to suggest modifications and changes in the electoral plan to be prescribed by this law, the following outline of the electoral system is suggested as appropriate:—

(A). Under the electoral law there shall be created a National Electoral Commission which shall have full and general power to supervise the election and to prescribe regulations having the force of law for the registration of voters, the casting of their ballots, and all other matters pertaining to the election that are not covered by the electoral law. Among other powers, the National Electoral Commission shall have the exclusive right to canvass the number of votes cast at the election and to determine all questions and contests as to the regularity and legality of such votes, and their determination as to the number and legality of the votes cast shall be final and shall be reported directly to Congress for its certification and declaration of the result of the election.

(B). This Commission shall consist of three members to be suggested by the President of the United States, one such member being a Conservative, one a Liberal, recommended by the respective party organizations to which they belong, and the third, the Chairman, being an American. A majority of the Commission shall be (sufficient) to constitute a quorum and to take action on any matter but no such action or resolution of the Commission shall be valid or effective unless concurred in by the American Chairman.

(C). There shall be in each Department a Departmental Election Commission composed of three members, one Conservative, one Liberal, and the Chairman, the latter being an American. These members shall

be appointed by the National Electoral Commission, the Liberal and Conservative members being appointed after consultation with the local organizations of the respective parties.

(D). In each polling place, there shall be a Local Election Board composed of three members, one Conservative, one Liberal, and the Chairman, the latter being an American. These members shall be appointed by the National Electoral Commission, the Liberal and Conservative members being appointed after consultation with the local organizations of the respective parties.

(E). In the Departmental Commissions and Local Boards, a majority of the members shall be sufficient to constitute a quorum and to take action by resolution or otherwise but no such action or resolution shall be valid or effective unless concurred in by the American Chairman.

II

PRESERVATION OF LAW AND ORDER FOR THE PURPOSE OF THE CONDUCT OF THE ELECTION

(1). The National Army shall be disbanded and mustered out of service contemporaneously with the disbandment of the opposing forces and the function of preserving law and order throughout the country shall be assumed by a National Constabulary to be organized under the instruction and, so far as possible, the direction and command of American officers now in active service and detailed to this duty by the President of the United States.⁷⁹

(2). The National Electoral Commission, through its Chairman, shall have the right to command the services of the National Constabulary and to issue orders thereto for the purpose of preventing intimidation and fraud in the election and of preserving law and order during the various acts of registration and voting. It shall also have the right by regulation to prescribe the method under which the Departmental Election Commissions and the Local Election Boards shall each have the right to command the services of members of the National Constabulary located within their jurisdiction for the similar purpose of preventing intimidation and fraud and preserving law and order for the election.

(3). In view of the disturbed condition of the country after the recent civil war and of the fact that a very considerable time will be required for the organization, instruction, and discipline of the National Constabulary, the Government of Nicaragua requests that the President of the United States will permit a sufficient force of American marines to remain in the country pending the organization and instruction of the Constabulary and during the election to reinforce the

⁷⁹ See pp. 433 ff.

work of the Constabulary in securing an absolutely impartial election between both parties.

A[DOLFO] D[IAZ]

817.00/4902

The Secretary of State to the Minister in Nicaragua (Eberhardt)

No. 234

WASHINGTON, June 11, 1927.

SIR: The Department transmits herewith a letter from the President of the United States to the President of Nicaragua which you will deliver personally to the latter. A copy of this letter and a copy of President Diaz' communication ⁸⁰ to which it replies are enclosed for your information and the files of the Legation.

The Department desires you to consult with President Diaz with regard to the manner in which the aid of the United States may be best rendered for the supervision of the elections and the maintenance of peace and order in Nicaragua until that time, and report in full to the Department, together with your personal recommendations.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

President Coolidge to President Diaz

WASHINGTON, June 10, 1927.

EXCELLENCY: I have received Your Excellency's letter dated May 15, 1927, requesting the friendly assistance of the President of the United States in preparing a proper election law in Nicaragua, in securing supervision by impartial Americans of the actual conduct of the elections, in securing American assistance to train and direct an impartial and non-partisan force of constabulary to secure law and order and prevent intimidation of voters, and in other ways to secure American assistance in tranquillizing the sorely disturbed condition of the country so that elections can be fairly held. Your Excellency submitted with this letter a memorandum showing the steps which your Government suggests may be desirable or appropriate to be taken in order that the President of the United States may be able adequately to perform this great service to the Republic of Nicaragua. Your Excellency adds that the Government of Nicaragua will gladly consider the taking of any other steps on its part which may be suggested by the President of the United States as essential or desirable for the accomplishment of that purpose.

In reply I am pleased to inform Your Excellency that I shall welcome the opportunity to assist the Government of Nicaragua to hold free and fair elections at the time appointed by the Constitution. I have been much gratified at the recent settlement of the difficulties

⁸⁰ *Supra.*

in Nicaragua brought about through the good offices of my personal representative, Colonel Stimson, and the wisdom and patriotism shown by the Nicaraguan Government and the Nicaraguan people of all factions. It is my earnest desire that the peace which has now been arranged may be a permanent one, and to this end it is my desire to be of all possible assistance in the future. I am instructing the American Minister at Managua to discuss with Your Excellency the manner in which the aid and assistance of the United States can be best extended both for supervising the elections in Nicaragua and for maintaining order in the country until that time. Mr. Eberhardt has my entire confidence and will, I know, welcome this opportunity to be of service to the Nicaraguan people.

Accept [etc.]

CALVIN COOLIDGE

817.00/4978

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 437

MANAGUA, July 7, 1927.

[Received August 9.]

SIR: I have the honor to transcribe herewith for the information of the Department, the Decree No. 49 of President Diaz calling elections in the Departments and Districts where no such elections were held in 1926 on account of revolution:

(From *La Gaceta*, Diario Oficial, Managua, June 18, 1927)

A translation of this Decree follows:

No. 49

The President of the Republic in the use of his powers and in accord with Article 81 of the Constitution,

DECREES:

ARTICLE 1st: Call elections of Senators and Deputies in those departments and districts where on account of war such elections were not held or remain incomplete.

ARTICLE 2nd: This Decree also affects the districts and cantons of the Atlantic Coast where there was no voting because those places were occupied by the rebel forces.

ARTICLE 3rd: Sunday, the Fourth of September of the current year, is set for the day to carry into effect this voting.

ARTICLE 4th: This Decree will commence to be in force from the date of its insertion in the *Gazette*, and in the Departments of León, Chinandega, Estelí and Bluefields from its proclamation by Band in the capitals of such departments.

Make public: Presidency. Managua, June 17, 1927. Adolfo Diaz. Minister of the Interior, Ricardo Lopez C.

I have [etc.]

CHARLES C. EBERHARDT

817.00/4960 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, August 2, 1927—8 p. m.

118. Your 186, August 1, 3 p. m.⁸¹ The following statement was made public at the Executive Offices at Rapid City on July 2nd:

"In order to carry out the promise made to the Nicaraguan Government and to the Liberal Party in Nicaragua that the United States would supervise the Nicaraguan Presidential elections in 1928, to insure that all Nicaraguans may freely express their preference at the polls, it will be necessary to establish a commission to supervise the elections. It has been agreed that the Chairman of this Commission should be an American nominated by the President of the United States and appointed by the President of Nicaragua. The President will nominate for this position General Frank R. McCoy.

It will be necessary for General McCoy to visit Nicaragua before the Presidential elections in order to study conditions and to make recommendations, and he will probably leave for Nicaragua in August as the President's representative for this preliminary work."

You may inform President Diaz of the above, and also say that General McCoy sails August 10th and will arrive at Corinto about August 22, the exact day being communicated to you later. You will request for him the usual courtesies of the port and arrange for him to have an interview with President Diaz immediately upon his arrival in Managua. General McCoy is anxious to observe the elections of September 4 in order to familiarize himself with the manner in which elections are conducted in Nicaragua. Please see that the necessary facilities are accorded to him. Munro⁸² accompanies McCoy who is also bringing his aide and a private secretary.

KELLOGG

817.00/4981

*The Secretary of State to the Personal Representative of the President of the United States in Nicaragua (McCoy)*WASHINGTON, August 9, 1927.¹

MY DEAR GENERAL MCCOY: I take pleasure in transmitting herewith your commission as the Personal Representative of the President of the United States in Nicaragua, with the rank of Envoy Extraordinary and Minister Plenipotentiary. In handing you this commission I am authorized by the President to inform you that your mission in Nicaragua will be to carry out the promise made to the Nicaraguan Government and to the Liberal party in Nicaragua by Colonel Henry

⁸¹ Not printed.⁸² Dana G. Munro, who had been transferred from Panama to Nicaragua as first secretary of Legation.

L. Stimson, acting as the Personal Representative of the President, that the United States would supervise the Nicaraguan presidential elections in 1928. It is the intention of the President to nominate you as the Chairman of a Commission to be established to supervise these elections, your appointment to be made by the President of Nicaragua.

It is also the President's desire that you should during your entire stay in Nicaragua study conditions, both political and military, and make recommendations to the President and to me, and do everything possible to assist the Nicaraguan Government in electoral and military matters.

I am [etc.]

FRANK B. KELLOGG

817.00/5036

*President Diaz to the American Minister (Eberhardt)*⁸³

[Translation ⁸⁴]

MANAGUA, August 18, 1927.

MR. MINISTER: I have read with satisfaction the letter of the President of the United States, Calvin Coolidge, which was delivered to me by Your Excellency a few days ago in reply to the one which I addressed to him about matters of great interest to Nicaragua.⁸⁵ I wish to refer to that part of this important document where President Coolidge tells me to make to you any pertinent suggestions regarding the best way of supervising the election of high officials which shall take place in this Republic in October 1928, and which forms an essential part of the plan adopted for the pacification and political reconstruction of Nicaragua.

Since General McCoy, the expert selected by President Coolidge to plan, direct and carry out the work of supervision, will arrive shortly it seems to me advisable to defer until he has formed his impressions in the country the discussion of the most important points and the outlining of plans to be followed to obtain greater efficiency in the work and to satisfy better the two political parties directly interested.

For the present I wish especially to call your attention to the desirability of effecting all necessary acts and measures in order that upon this act of supervision, that is, upon a free and fair election, there may be built up tomorrow on a permanent basis the general policy of the Government which formerly produced such happy results for Nicaragua when it was carried out with the friendly cooperation of

⁸³ Transmitted to the Department by the Minister as an enclosure to his despatch No. 468, Sept. 3, 1927; received September 19.

⁸⁴ File translation revised.

⁸⁵ *Ante*, pp. 353 and 350.

the Government of the United States; that is to say, matters must be arranged in such a manner that whatever the result of the election may be, the man or party that wins must be bound by solemn pledges to follow a social and economic policy along the lines indicated by this cooperation of the Government of the United States which is regarded as a guarantee for the future of the people of Nicaragua. Without this, this very act, so helpful to the development of democracy, might endanger the maintenance of peace, because the new Government, with an inclination to destroy what has been done up to now and to separate itself from the influence of the United States, might seek the cooperation of other foreign elements which would be a menace for the future and a source of uneasiness.

With this accomplished, it is easy to discover ways by which General McCoy may obtain complete success in his work of supervision with which President Coolidge has entrusted him, and I assure you that from now on he will have at all times the willing and determined cooperation of the Government over which I preside.

Among those measures designated to maintain the system of cooperation which has been adopted in agreement with the American Government, is the continuance of the *Guardia Nacional* in the form in which it is now functioning under the direction and command of American officers under the supreme command of a high officer of the American Army, Gen. Elias R. Beadle. This *guardia* in time will become a disciplined and intelligent body, adapted to all military duties and supporting the Constitution and the national institutions; but until it reaches a state of complete efficiency the peace of the Republic must be assured against any subversive attempts or other resistance. In my opinion, this should be attained by leaving a small body of American marines during the next Presidential term as a Legation guard as was done formerly. The happy results which we might obtain by the presence in the Capital of a small body of marines are indicated by the results already obtained in the 13 years of peace which Nicaragua enjoyed and which arose from the respect derived by the constitutional governments from the indirect assistance of this body of marines.

We have also seen how upon the withdrawal of these marines peace came to an end and the Republic was thrown into a state of terrible agitation and became involved in one of our most bloody and destructive civil wars.

I have set forth briefly these suggestions regarding the three points which I consider essential for the strengthening of the peace and a political regeneration, because I know that Your Excellency with your knowledge of the country, of its men, of its resources and of its difficulties, will be able to understand the question clearly and to explain

it in a more detailed manner to President Coolidge and to the Department of State when you undertake your projected journey.

I extend my thanks at this time to Your Excellency for your efforts along the lines indicated, and I avail myself [etc.]

ADOLFO DIAZ

817.00/4995 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 20, 1927—9 a. m.

[Received 1:50 p. m.]

205. Most Conservatives, including Chamorro followers, are urging Diaz to advise Chamorro⁸⁶ by cable to renounce publicly any intention to be Presidential candidate 1928 and to declare publicly that he will return and actively support any regularly nominated candidate. They do not ask that the Department openly commit itself, but believe Chamorro will comply if Diaz may add in the communication that both the Department of State and this Legation have knowledge of the message. Does the Department perceive any objection to such cable?

EBERHARDT

817.00/4995 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, August 22, 1927—noon.

127. Diaz may state to Chamorro that he has notified the Department of State and the Legation of his message as you suggest in your 205, August 20, 9 A. M. In my opinion, he is not eligible under Article 104 of the Constitution of Nicaragua⁸⁷ because he was *de facto* president and held the office during a part of the term preceding the next election. Unless the Constitution means this, it would have little effect because if one could hold the office during a part of the term, then resign and become a candidate, it would entirely nullify the intent of this provision. We refused to recognize him because he obtained the office in violation of the treaty. I think as a last resort I should be willing to notify Chamorro that the Department does not consider him eligible under the Constitution and, therefore, could not recognize him as president, should he be elected. For the present, however, it is probably sufficient for you to authorize Diaz to make the statement he requested.

KELLOGG

⁸⁶ Then Nicaraguan Minister in France. See telegram No. 240, Dec. 16, 1926, from the Minister in Nicaragua, *Foreign Relations*, 1926, vol. II, p. 811.

⁸⁷ Translation of article 104 of the Nicaraguan Constitution reads: "No citizen who holds the office of President, either as the duly elected incumbent or accidentally, shall be eligible to the office of President or Vice President for the next term."—*Foreign Relations*, 1912, pp. 997, 1005.

817.00/5001 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 24, 1927—6 p. m.

[Received 10 p. m.]

209. McCoy and party arrived today; Munro is expected to arrive 27th.

EBERHARDT

817.00/5005 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 29, 1927—2 p. m.

[Received 8:40 p. m.]

215. Arrangements have been made for marines to be present solely as observers and if necessary to back up the local police in maintaining order in the departments where elections will be held next Sunday.⁸⁸ As previously agreed the Conservatives will not contest the elections in Leon, Chinandega and Esteli. There will be a contest in Bluefields. At the request of Moncada and with the consent of the President, marines will be sent to the important points in that department where they are not already stationed to remain only over election day.

EBERHARDT

817.00/5009 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 31, 1927—3 p. m.

[Received 8 p. m.]

220. Cable referred to in my 205, August 20, 9 a. m., and Department's 127, August 22, noon, was sent by Diaz on the 29th, supported by a cable signed by most of the prominent Conservatives of Granada who also joined in a letter to Chamorro explaining in detail their attitude. Copies and translations follow in next mail.⁸⁹

EBERHARDT

817.00/5011 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 1, 1927—4 p. m.

[Received September 2—12:17 a. m.]

222. President Diaz has just shown me a curt telegram of resignation from Chamorro, presumably called forth by the telegrams referred

⁸⁸ September 4.⁸⁹ Not printed.

to in my telegram of August 31, 3 p. m. It is not known how this will affect Chamorro's declared intention of leaving Europe for Nicaragua via the United States about September 14th.

Diaz has replied requesting explanation of the ex-President's reasons for resignation.

EBERHARDT

817.00/5035

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 467

MANAGUA, September 2, 1927.

[Received September 19.]

SIR: I have the honor to transmit herewith, for the Department's information, a copy of a note which I addressed to the Foreign Office on August 25, 1927, informing the Nicaraguan Government of the nomination of General McCoy to be Chairman of the Commission to supervise the elections of 1928, and that General McCoy had come to Nicaragua as the personal representative of the President of the United States with the rank of Envoy Extraordinary and Minister Plenipotentiary; and also a copy and translation of the reply received from the Minister for Foreign Affairs under date of August 26, 1927. It will be noted that Dr. Cuadra Pasos states that President Diaz has instructed him to say that the President accepts with pleasure the suggestion of the President of the United States, that General McCoy will be duly appointed as chairman of the commission to supervise the elections, and that the Government will endeavor to give him every assistance in carrying out his mission.

I have [etc.]

CHARLES C. EBERHARDT

[Enclosure 1]

The American Minister (Eberhardt) to the Nicaraguan Minister for Foreign Affairs (Cuadra Pasos)

No. 130

MANAGUA, August 25, 1927.

EXCELLENCY: I have the honor to advise Your Excellency that acting upon the request of Your Excellency's Government,⁹⁰ His Excellency, Calvin Coolidge, President of the United States of America, has nominated as Chairman of the Commission to be formed to supervise the elections of 1928, Brigadier General Frank Ross McCoy, United States Army. It is understood that at an opportune date, acting upon this nomination by the President of the United States of America, the appointment of General McCoy to this position will be made by His Excellency, the President of Nicaragua.

⁹⁰ See note of President Diaz to President Coolidge, May 15, 1927, p. 350.

General McCoy has come to Nicaragua as the personal representative of the President of the United States of America in Nicaragua with the rank of Envoy Extraordinary and Minister Plenipotentiary, authorized and empowered to execute and fulfill the duties of this commission with all the powers and privileges thereunto of right appertaining.

General McCoy will rank with and immediately after His Excellency, Charles C. Eberhardt, the regularly accredited Minister of the United States of America in Nicaragua.

Be pleased [etc.]

CHARLES C. EBERHARDT

[Enclosure 2—Translation ²¹]

The Nicaraguan Minister for Foreign Affairs (Cuadra Pasos) to the American Minister (Eberhardt)

No. 435

MANAGUA, August 26, 1927.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note in which you state that in accordance with my Government's previous request, His Excellency Calvin Coolidge, President of the United States of America, has nominated Brigadier General Frank Ross McCoy, United States Army, as Chairman of the Commission to be formed to supervise the elections of 1928, in order that at an opportune date he may be appointed to this position by the President of Nicaragua.

Your Excellency also states that General McCoy has come to Nicaragua as the personal representative of the President of the United States with the rank of Envoy Extraordinary and Minister Plenipotentiary.

I have informed President Adolfo Diaz of the contents of your note and in reply he has instructed me to tell you that he accepts the wise selection of the President of the United States with the greatest pleasure, and that he will proceed to carry out all the necessary formalities respecting the appointment of General McCoy as Chairman of the Commission to supervise the general elections of 1928, thereby placing at the disposition of General McCoy all the means necessary toward an efficient supervision of the election which the country so eagerly awaits.

This Chancery has taken due note of the wishes of Your Excellency's Government that General McCoy be ranked as Envoy Extraordinary and Minister Plenipotentiary and to this end my Government will extend to General McCoy all the privileges and immunities to which, according to international practice and the laws of Nicaragua, such officials are entitled.

²¹ File translation revised.

From this moment my Government will consider Brigadier General Frank Ross McCoy as second in rank to Your Excellency in Nicaragua.

On my part, I wish success and a satisfactory visit to General McCoy in my country, and I am grateful for the opportunity to express once more to Your Excellency my highest consideration.

CARLOS CUADRA PASOS

817.00/5021 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 8, 1927—9 a. m.

[Received September 9—1:10 a. m.]

230. Department's September 7, noon.⁹² Full reports regarding elections are not yet available. Two Senators and two Deputies were elected in the Department of Leon, two Deputies in the Department of Chinandega and one Senator and one Deputy in the Department of Esteli. In each of the above cases the Liberals won, as practically no Conservatives voted. There were no real complaints in these departments although the Conservatives pretended in some instances that they were not voting because they feared mistreatment. The [voting] was somewhat delayed in several places by the failure of Conservative members of the electoral boards to report for duty. The marines maintained order.

In Rama, in the Department of Bluefields, one Deputy was elected. The Conservatives claim to have won. The American consul at Bluefields reports that the Liberals accuse the Conservatives of unfair tactics in designating polling places and distributing ballots and the marines report that the Liberals protested in two precincts. No details have been received here by the Central Electoral Board.

EBERHARDT

817.00/5026 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 11, 1927—4 p. m.

[Received 9 p. m.]

238. My September 1, 4 p. m. Chamorro's resignation as Minister to France has not been accepted.

EBERHARDT

⁹² Not printed.

817.00/5046 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, September 26, 1927—10 a. m.

[Received 2:08 p. m.]

93. Brigadier General McCoy sailed on *Pastores* yesterday, will arrive New York City October 2nd. Please advise Fort Hoyle.

SOUTH

817.00/5053 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 4, 1927—3 p. m.

[Received October 5—12:07 p. m.]

261. Moncada sailed for the United States yesterday on the steamer *Colombia* due at New York about October 17th.

At present Moncada apparently enjoys the enthusiastic support of the great majority of the Liberal Party which seems for the time being to have discarded its old leaders and to have adopted a new point of view and especially a more friendly attitude toward the United States.

MUNRO

817.00/5054 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, October 4, 1927—9 p. m.

[Received October 5—2:35 p. m.]

263. In my estimation the Department should take advantage of Chamorro's presence in the United States to dissuade him from becoming a candidate in the elections of 1928. If the Department does not convince him now that he will not be recognized or permitted to assume office should he be elected, it will be virtually impossible to discourage his candidacy after he returns to Nicaragua. As all the other leaders of the Conservative Party are afraid of Chamorro, I do not think they can prevent his candidacy even if they may wish to. His ambition for power is consuming, and as long as he thinks there is any prospect of regaining the Presidency he will not hesitate to risk the welfare of his party or even risk recognition by the Government of the United States.

Even if he were eligible for the Presidency, his election in 1928 would be disastrous to Nicaragua because it would intensify the hostility of the two parties to such a degree that the establishment of a satisfactory government would be impossible. . . .

I believe the above points outweigh the obvious disadvantages of appearing to do anything to influence the selection of candidates by either party.

MUNRO

817.00/5086 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 12, 1927—9 a. m.

[Received 2:55 p. m.]

277. Elections were not held on September 4th in many precincts where they should have been held. In the Department of Esteli where many districts were still disturbed by bandit operations, the precincts where no votes were cast are so numerous that the Congress will apparently be justified in rejecting the Liberal Senators and Deputies unless supplementary elections are held. On the east coast there was apparently no effort to hold an election for a Deputy from the District of Prinzapolca. A Senator for the Department of Bluefields should also have been elected as the senatorial election last year was held only in the city of Bluefields and not in the rest of the Department.

At the request of the Liberals therefore I have pointed out to the President the necessity for holding supplementary elections at the earliest possible date in order that there may be a full representation especially from the Liberal departments in the next Congress. He has promised to call such elections after consultation with the National Electoral Board.

There was also no voting in a few cantons in the Departments of Leon and Chinandega but I do not think that it will be necessary to complete the elections there if the administration can give assurances that there will be no question of the legality of the elections already held.

MUNRO

817.00/5082 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 18, 1927—11 a. m.

[Received 5:24 p. m.]

282. Municipal elections will be held throughout Nicaragua on November 6th and there will be close contests in several places including especially Managua. The marines will assist the local

police in maintaining order in the towns where they are stationed and particularly in certain places where the Liberals have informed me that they expect trouble.

At the request of the Liberals I have arranged with the President to suspend for a week before and a week after the elections the operation of laws requiring citizens to carry cards showing the payment of road taxes, anti-grasshopper taxes, et cetera, in order to prevent the police from molesting Liberal voters by demanding such cards.

At the request of the marines another decree has been issued prohibiting political demonstrations in the Managua streets on Sundays when there is special danger of drunken riots. I discussed this matter fully with Doctor Morales, Moncada's representative, and obtained his consent before the decree was issued.

MUNRO

817.00/5083 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 18, 1927—12 noon.

[Received 7:45 p. m.]

283. Moncada will probably take up with the Department the necessity for taking away from the Government the control of the police, of the internal revenues and of the communications system in order to guarantee electoral freedom. The Legation has already made recommendations regarding the first two points.⁸⁸ With respect to the third, I consider it highly desirable that at least the telegraph should be in neutral hands for some months before the elections. Experience has shown that the Government can do much to embarrass its opponents and interfere with their propaganda by withholding delivery or altering the text of telegraph messages.

I have, therefore, suggested to Colonel Beadle that he investigate the practicability of the *guardia's* assuming control of the telegraph as a matter of military necessity in view of the inconvenience now caused to the marines and the *guardia* by bad service. Would such an arrangement meet with the approval of the Department if it could be effected?

MUNRO

817.00/5085 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 19, 1927—10 a. m.

[Received 5:32 p. m.]

285. My October 12, 9 a. m. A decree was issued yesterday ordering supplementary elections on December 18th in those precincts

⁸⁸ See telegram No. 146, June 3, 1927, from the Minister in Nicaragua, p. 400.

in the Departments of Leon, Esteli, and Bluefields where no voting occurred on September 4th.

While I could find nothing definite in the electoral law requiring 60 days' notice, the President and his advisers said that the law always had been so interpreted and that Congress might take occasion to declare the new elections invalid if furnished with any excuse to do so. As Doctor Morales, Moncada's representative, concurred in this opinion when I originally discussed the matter with him I consented to the calling of the elections for December 18th, the first possible Sunday, although this will mean that the Senators and Deputies then elected will not be able to take their seats until a few days after Congress meets. Yesterday after the decree had been drafted and was about to be issued Doctor Aguado, the Liberal member of the National Board of Elections, questioned the necessity for 60 days' notice. I felt it inadvisable to recommend a change in the date because I considered it important not to give the Conservative majority in Congress, over whom Diaz may not have very much control, any excuse for excluding the Liberal members. If the Liberals had not delayed more than a month in furnishing me the information needed for taking up this matter the elections could have been held before the opening of Congress.

Some question existed regarding the necessity for holding supplementary elections in certain precincts of Leon. Both the President and Doctor Aguado felt it advisable to include these and I therefore raised no objection although this may mean that the two Senators from the department will not be able to take their seats until after the election has been held. Doctor Morales, I believe, felt that new elections should not be held in this department but I was unable to get in touch with him yesterday when a final decision had to be reached.

MUNRO

817.00/5088 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 21, 1927—3 p. m.

[Received 6:05 p. m.]

287. After the publication of the decree referred to in my telegram of October 19, 10 a. m., the Liberals brought me data which they had not hitherto presented showing clearly that it has not been the practice to give 60 days' notice before holding elections. I therefore discussed the matter again with the President and he has promised to issue a new decree calling the supplementary elections for November 20th, which will permit the Liberal Senators and Deputies to be present at the opening of Congress.

MUNRO

817.00/5086

Memorandum by the Assistant Secretary of State (White)[WASHINGTON,] *October 22, 1927.*

General Chamorro called on me to-day and stated that he would like to know how the Department felt towards him since the happenings of October 25, 1925. He said that he had always been very friendly to the United States and was sorry if the Department had changed its feeling in any way toward him on account of what had taken place in Nicaragua. He stated that had he been told definitely at the outset that he would not be recognized, he would not have assumed the presidency. When he and General Estrada were taking the Loma, General Estrada had said to him that as soon as the Loma was taken, he should immediately return to his house and remain there quietly, but that he, General Chamorro, had replied that he did not care about the presidency, but merely wanted to be sure that everything went off peacefully and without causing trouble and uprisings in Nicaragua. He felt sure that as soon as it was known that he was in charge of the Loma, there would be no uprisings throughout the country. After the seizure of the Loma, he had seen Mr. Eberhardt very little, and he complained that he had not been definitely told that he would not be recognized, or he would not have taken the final steps.

I told General Chamorro that I understood that he had been so informed, and then read him cable No. 150 of October 25, 3 P. M. from Mr. Eberhardt,⁹⁴ in which he had reported the seizure of the Loma and had added that he had been in communication with General Chamorro and advised him that the Legation had no other course to pursue than to support the Constitutional Government, and that any government assuming power by force would not be recognized by the Government of the United States. I added that the Department had immediately replied, approving Mr. Eberhardt's action. Chamorro also stated that later on in December Mr. Eberhardt had read him a telegram from the Department, but this did not seem to state categorically that he would not be recognized, so I read to him the Department's No. 114 of December 9, 7 P. M.⁹⁵ and told him that I thought it could not have been stated more clearly. I added that this was all past history now, however, and we were now concerned with the rehabilitation of the country and the mending of damage that had been done. General Chamorro stated that he would like the Department in some way to indicate that it was not unfriendly to him, and as he put it "restore his civil rights". He added that he wanted to return to Nicaragua and that he would not launch his candidacy when he got down there as he did not think any candidacy should be proclaimed until the Conservative

⁹⁴ *Foreign Relations*, 1925, vol. II, p. 639.⁹⁵ *Ibid.*, p. 642.

Party Convention meets next May. There are several candidates for the nomination and should any candidacy be launched now it would divide the party, and he thought it better to wait, but he said that he would guarantee to confer with our Minister or Chargé in Managua next May regarding the Party's candidate, and he would undertake that only one acceptable to this Government would be nominated.

I told General Chamorro that this was not what we wanted. It is not the Department's policy, I said, to pick out candidates for President in a foreign country. That is an internal matter for the members of the party to determine for themselves, and whoever they may select who is not debarred by the Constitution or the Treaty of February 7, 1923,⁹⁶ is, of course, acceptable to the Department. Each party must pick out its own candidate, and the Nicaraguan people must pick out from them their own President. The only thing the Department is called upon to say is whether it can recognize as Constitutional President a given individual. Anybody who can be elected in accordance with the Constitution and not in violation of Article II of the General Treaty of Peace and Amity would, of course, be recognized by the Department. I told General Chamorro that unfortunately in his case we could not give him recognition as President any time during the term beginning January 1, 1929, and then I handed him the following statement:—

"On January 1, 1929, the Government of the United States will be confronted by the necessity of deciding whether it can consistently recognize the incoming administration in Nicaragua as the constitutional government of that country. While the United States is not supporting or opposing any political candidate it is most desirous that there should be no question at that time as to the eligibility under the constitution of the person who may have prevailed at the presidential elections, since it wishes to extend the fullest and most sympathetic cooperation to the new government.

"In these circumstances and in view of the reports that General Chamorro contemplates becoming a candidate for the presidency of Nicaragua in the 1928 elections, the Government of the United States has no choice but to point out that it regards General Chamorro as ineligible under the provisions of the Nicaraguan constitution to the office of President of Nicaragua during any part of the term commencing January 1, 1929.

"Article 104 of the Nicaraguan constitution provides that

'No citizen who holds the office of President, either as the duly elected incumbent or accidentally, shall be eligible to the office of President or Vice President for the next term.'

General Chamorro unquestionably held the office of President *de facto* from January 17 to October 30, 1926, thus bringing himself within the prohibition of Article 104 of the Constitution and Article

⁹⁶ General treaty of amity and peace, signed Feb. 7, 1923, *Conference on Central American Affairs*, p. 287.

II of the General Treaty of Peace and Amity of February 7, 1923, thus making it impossible for the Government of the United States to regard him as eligible to the office of President of Nicaragua for the term beginning January 1, 1929, or to recognize him as the Constitutional President of Nicaragua if he should claim or attempt to occupy the office during any part of said term."

General Chamorro read over the statement and said that he would like to come in later to confer with me and perhaps see the Secretary. I told him that I would, of course, be glad to receive him any time he cared to come in.

F[RANCIS] W[HITE]

817.00/5093 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 24, 1927—3 p. m.

[Received 9:20 p. m.]

289. Under the existing electoral law the Supreme Court must elect the president of the National Electoral Board before December 1st. The Minister of Foreign Affairs has inquired informally whether they would prefer that the Supreme Court elect General McCoy now or that another person should be elected who would later give place to General McCoy. In either case the appointment would presumably become ineffective when the law is amended as it is understood that General McCoy will receive his final appointment from the President of Nicaragua. The Minister for Foreign Affairs thinks that other steps which the law requires to be taken before the time when Congress will have been able to amend the law can be neglected for the present by mutual consent, but he does not think that it would be proper to ask the Supreme Court to disobey or to disregard a law even when it knows that the law is to be changed. If the Supreme Court takes action he and I both feel that it would be better for it to elect General McCoy to prevent any misunderstanding. Please instruct.

MUNRO

817.00/5099a : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, October 27, 1927—1 p. m.

163. In answer to inquiries by press correspondents the Secretary on October 26 made the following statement:

"As I have said before, the United States is not going to select any candidate for President of Nicaragua either Conservative or Liberal. Neither is the United States going to back or use its in-

fluence for the election of any particular person. The United States is going to do its best to see that there is a fair, open and free election where everybody who is entitled to vote has an opportunity to do so. This has been made perfectly plain. Of course following the Constitution of Nicaragua and the Treaty⁷ the United States cannot recognize anybody who is not qualified under the Constitution to hold the office."

General Moncada was presented to the Secretary this morning by Nicaraguan Minister. The Secretary repeated this statement to him.

KELLOGG

817.00/5103 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 28, 1927—2 p. m.

[Received 7:45 p. m.]

301. President Diaz has asked the information, if possible by December 1st, regarding the chief points in the new electoral law to be proposed by General McCoy in order that he may discuss the matter in his message at the opening of Congress.

MUNRO

817.00/5093 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, October 29, 1927—1 p. m.

173. Your 289, October 24, 3 p. m. Department concurs with you that it would be better to follow the suggestion of Minister of Foreign Affairs and have Supreme Court elect General McCoy.

OLDS

817.00/5083 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, October 29, 1927—6 p. m.

174. Your 283, October 18, 12 noon. Department perceives no objection to the *guardia* assuming control of the telegraph for a reasonable time prior to and during elections, provided this is done under instructions from the President and is not objected to by the Liberals. Cable date you think control should be assumed.

OLDS

⁷ i. e., the general treaty of peace and amity, signed Feb. 7, 1923.

817.00/5107 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 31, 1927—3 p. m.

[Received 8:30 p. m.]

305. Department's 174, October 29, 6 p. m. I think that control over telegraph lines should be assumed by the *guardia* within the next 3 or 4 months if the President will agree thereto but that it should be a permanent rather than a temporary control. An adequate communications system is essential to the success of the *guardia's* work and this extension of the *guardia's* activity would involve little extra expense. A mere temporary control would do little good because the telegraph operators would pay little attention to American officers temporarily placed over them when they knew that the old political management would return after the elections and that any operators discharged for improper conduct would then be restored.

MUNRO

817.5011/1 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 2, 1927—2 p. m.

[Received 9:10 p. m.]

314. Moncada's representatives state that they consider a new census necessary for the proper conduct of next year's elections. They assert that the preparations for distribution of Deputies in Congress is inequitable and that the distribution has not even been revised in accordance with the last census which was taken in 1920. They request therefore that the Congress at its approaching session should be asked to enact a law authorizing a census and instructing the Executive to establish new congressional districts on the basis thereof. If the holding of a new census proves impracticable they ask that the congressional districts be at least revised in accordance with the census of 1920.

While I have been very reluctant to take up this matter because of the expense and difficulty of the undertaking I have little doubt that the Liberals' objections to the present apportionment are well founded and that a new census would be of great value in connection with the election. The marines and the *guardia* could help conduct one in the districts where they are stationed and it might be possible to utilize any Americans who may be employed in connection with the supervision of the elections. I have therefore promised the Liberals to place the matter before the Department for its consideration and to recom-

mend that General McCoy and Dr. Dodds⁸⁸ be consulted. The latter I believe has already looked into the matter of reapportionment somewhat.

MUNRO

817.00/5117 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 4, 1927—3 p. m.

[Received 7:23 p. m.]

318. Department's 173, October 29, 1 p. m. It now appears that it will be necessary for the new National Electoral Board to be organized on December 1st when the former board's term will expire in order to complete the canvass of the congressional elections to be held November 20. Consequently it seems advisable that the Supreme Court should now select a Nicaraguan president of the Board to hold office until the adoption of the new law under which General McCoy will serve. Both parties agree to this procedure. Has the Department any objection?

MUNRO

817.00/5107 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 5, 1927—6 p. m.

184. Your 305, October 31, 3 p. m. Department does not deem it advisable that *Guardia* should take over permanent control of telegraph lines at least at this time. If difficulties occur in the administration of the telephones and telegraphs which hamper the *Guardia*, Department feels the matter should first be taken up with President Diaz in an endeavor to have it remedied by him and that it should only be taken over if other efforts to remedy maladministration persist. Department understands of course that it will probably be necessary for the telegraphs to be taken over for a certain period preceding registration and elections as an electoral matter to secure a free and fair vote. Department would rather wait until nearer the elections and in all events until after the return of McCoy before doing this.

KELLOGG

⁸⁸ Dr. Harold W. Dodds, who accompanied General McCoy on his trip to Nicaragua. Dr. Dodds had been engaged in 1921 by the Nicaraguan Government to assist in the revision of the electoral laws of Nicaragua. See *Foreign Relations*, 1923, vol. II, pp. 605 ff.; also *ibid.*, 1924, vol. II, pp. 487 ff.

S17.00/5127

The Nicaraguan Minister (César) to the Secretary of State[Translation ⁹⁹]

WASHINGTON, November 8, 1927.

EXCELLENCY: I have the honor to enclose with this note a press report which appeared in the *New York Times* of October 26, 1927,¹ concerning which I take the liberty to invite Your Excellency's attention.

Although I am certain that Your Excellency's Government in no wise authorized those reports or assumed any responsibility for them, I trust that Your Excellency will appreciate the deep concern with which my Government has viewed the appearance in the serious press of the United States of communications emanating from Washington which might be interpreted as the official expression of the attitude of the American Government and which would indicate a tendency to favor one of the political parties in Nicaragua against the other. Your Excellency can easily realize that the voters of Nicaragua are more likely to be impressed by information in the responsible press of the United States regarding the attitude of Your Excellency's Government than by any information they could receive from other sources.

I should deeply regret to increase by petty criticisms the difficulty of the task, already difficult enough, which Your Excellency's Government consented to assume when it promised the people of Nicaragua free elections in 1925 [1928].² However, I should fail in my duty if I did not make known to the American Government the significance and possible effects of certain manifestations of sympathy which the press of this country has ascribed to certain prominent Americans in favor of the probable Liberal candidate, General Moncada.

A gesture, which perhaps was nothing but a message of greeting or friendship from one high political American person to one of my fellow-countrymen might perhaps have an influence in the elections in favor of one party and against the other. Sometime ago Colonel Stimson thought it opportune to send a telegram to General Moncada, which perhaps was nothing more than an expression of cordial sympathy, but which was worded in such a way that it did not fail to create in Nicaragua the impression that the Government of the United States favors General Moncada as a candidate.

On several occasions high officers of the American Navy in Nicaragua have praised General Moncada in public speeches. Such manifestations of sympathy might perhaps have been appropriate in any situation other than the present one, in view of the character of super-

⁹⁹ File translation revised.

¹ Not printed.

² See letter from President Coolidge to President Diaz, p. 353.

visor of the elections which Your Excellency's enlightened Government has agreed to assume. In the present situation in Nicaragua there is no doubt that the slightest evidence of cordiality beyond the point of mere forms of courtesy would be able to create among the people of Nicaragua the impression that the American official who is uttering the praise, in a manner, expresses the sentiment of his Government.

Your Excellency is well aware of the political meaning attached in the United States to the manifestations of sympathy expressed by the Chief Magistrate of the Nation in favor of a candidate, and the phrase "official candidate" is well understood.

I am convinced that Your Excellency is fully aware of the demands of perfect neutrality in supervising the elections, demands which will perhaps suggest the advisability of dispelling the erroneous impression that there may be in Nicaragua an official candidate for the forthcoming elections.

I beg to repeat that I have fully understood that Your Excellency's Government is in no wise responsible for the manifestations of personal sympathy that Colonel Stimson or several other high American officials may have seen fit to express to General Moncada, but nevertheless it is evident that a person who has represented the American Government at such a recent date on a high official mission in Nicaragua must be considered there, in all that relates to the politics of Nicaragua, as the spokesman of the Government of the United States.

I indulge the hope that Your Excellency will regard with leniency my earnestness, which may appear to be excessive, realizing the importance, in the acute crisis through which my country is now passing, of appearing "neutral in words as well as in deeds",³ according to the eloquent phrase of your illustrious President Wilson.⁴

Accept [etc.]

ALEJANDRO CÉSAR

817.00/5132 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 9, 1927—noon.

[Received 5:20 p. m.]

324. My November 7, 2 p. m.⁵ Further reports indicate that the elections were conducted almost everywhere in an extremely orderly manner and that there was surprisingly little fraud and relatively few disputes. There has been much favorable comment regarding

³The Spanish reads: "neutral tanto en palabras en hechos."

⁴"We must be impartial in thought as well as in action, must put a curb upon our sentiments as well as upon every transaction that might be construed as a preference of one party to the struggle before another." *Foreign Relations*, 1914, supp., p. 552.

⁵Not printed.

the assistance rendered by the marines and *guardia* in maintaining order. While the Liberals claim that there were abuses in many small places, where no marines could be stationed no serious disorders have been reported. From 30 to 60 percent of those registered appear to have voted.

An analysis of the vote cast by the two parties confirms the impression that the country is very evenly divided between them but that the Liberals have a slight majority. It is impossible however to estimate how far purely local questions influenced the vote. In Managua for example many Conservatives openly opposed the party candidate. In some other places abuse of authority by local officials undoubtedly reduced the Liberal vote. The Liberals won in Managua, Leon, Chinandega, Diriamba and apparently also in Jinotepe and Rivas, and the Conservatives in Granada, Matagalpa and apparently in Esteli and Masaya. In the latter city the vote was extremely close. There are conflicting reports from Bluefields.

There may be some difficulty in connection with the canvass of the vote, as the Conservative authorities will be tempted to alter the results fraudulently in cities where the vote was nearly even.

In such cases the losing party will have an appeal to the Supreme Court.

As there were alarming rumors that the municipal authorities might resort to fraud in Managua which is by far the most important city where there was a serious contest, I have endeavored very informally to make sure that there would be no attempt to prevent the Liberal candidate from assuming office.

MUNRO

817.00/5117 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 10, 1927—7 p. m.

187. Your 318, November 4, 3 p. m. Department's 173, October 29, 1 p. m. was sent on recommendation of Minister for Foreign Affairs contained in your 289, October 24, 3 p. m. concurred in by you. In view of change in situation Department has no objection to procedure agreed to by both parties.

KELLOGG

817.00/5137 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 11, 1927—10 a. m.

[Received 3:20 p. m.]

326. The Conservatives now wish to contest the congressional elections to be held in Esteli November 20th. The Minister for Foreign

Affairs tells me that his statement to Mr. Stimson that the Conservatives would not contest the supplementary congressional elections in the Liberal provinces, did not apply to Esteli where the Conservatives claim to have a majority. In the elections of September 4th, voting occurred only in those districts of the department where the Liberals predominate and the Conservatives did not participate because they feared violence from the Liberal bandits who were then active in the vicinity. They believe that they could win on November 20th, if given a fair chance; but they ask that marines be sent to Condega and other places to maintain order because they fear that Sandino, with whom many of the Liberals of the department are suspected of sympathizing, will otherwise send bands to terrorize the Conservative voters.

I can see no justification under the circumstances for insisting that the Conservatives refrain from contesting this election, provided that the marines can maintain order and assure as free a vote as in the recent municipal elections. I do not think that it is at all clear that there is a Liberal majority in the Department of Esteli. I feel however that I should have the Department's instructions before taking any action. This matter is extremely urgent as it will require several days to make necessary preparations and to send marines.

MUNRO

817.00/5137 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 11, 1927—9 p. m.

192. Your 326, November 11, 10 a. m. communicated to Colonel Stimson. He did not have his records with him but stated he clearly remembers when discussing matter with President Diaz and Cuadra Pasos that they stated that they wished to contest elections in one province, which he thinks was Esteli. In view of this and the conditions set forth by you Department sees no reason why Conservatives should refrain from contesting this election.

KELLOGG

817.00/5127

The Secretary of State to the Nicaraguan Minister (César)

WASHINGTON, November 17, 1927.

SIR: I have the honor to acknowledge the receipt of your note of November 8, 1927, with regard to newspaper comment in the United States in connection with the forthcoming presidential election in Nicaragua, and the acts and utterances of certain American citizens concerning possible candidates in that election. It appears that you fear misinterpretations may be placed upon acts inspired by courtesy

and friendly sentiments toward Nicaraguans high in the political life of the country; and that the motives underlying these acts may be interpreted as showing an intention on the part of the United States to lend its support to a particular candidate.

In reply I have the honor to inform you that the press report which you enclosed with your note under reference was not authorized by this Government. As you are doubtless aware, there is no censorship or control over the press of this country and therefore no press reports or editorials which do not specifically quote me in authorized statements can be considered as accurately reflecting the views of this Department. It is found advisable from time to time to furnish, for such publicity as the press may desire to give thereto, statements with regard to the policies of the Government.

On October 26, 1927, in answer to an inquiry by press correspondents, I stated that this Government is not going to select any candidate for President of Nicaragua, either Conservative or Liberal, nor is the United States going to back or use its influence for the election of any particular person.^a This country is going to do its best to see that there is a fair, open and free election where everybody who is entitled to vote has an opportunity to do so. Of course following the Constitution of Nicaragua and the Central American Treaty of 1923, the United States will not recognize anybody who is not qualified under the Constitution to hold the office.

I received both General Chamorro and General Moncada at your request. I made substantially the above statement to both of them. I extended no courtesy to one which I did not extend to the other. I have taken particular pains that the position of the United States should be understood in Nicaragua and published in the press there. I am not aware of any speeches made by the Marines in Nicaragua and I can say to you that, of course, the Marines or no other American officers or officials will be permitted to take any part in the election beyond the supervision. So far as Colonel Stimson is concerned, while he is not an official of this Government, he was in Nicaragua representing the President and I am very sure that his attitude will be the same as that of this Department. He will take no part in any way in the election. In this connection I may observe, however, that it is quite natural that he should congratulate General Moncada on denouncing Sandino as a bandit, a statement with which I have no doubt the Nicaraguan Government will agree.

In the above statement you will find an exact expression of the attitude of the United States Government toward individual candidates for the Nicaraguan Presidency, whoever they may be and with whatever party they may be affiliated. It would be a source of deep

^a See telegram No. 163, Oct. 27, 1 p. m., to the Chargé in Nicaragua, p. 369.

regret if the policy of this Government should be considered in any other light, whether as a result of interpretations placed upon the unofficial acts or utterances of private individuals in the United States, or perchance through articles appearing in the press, over which, as I have already said, this Government exercises no control. It would be unfortunate indeed if a misunderstanding of the true motives of the United States should result in disadvantage to any particular candidate in the forthcoming election; whether this disadvantage arose through unconscious forces of public opinion, or from the conscious dissemination of unwarranted propaganda in favor of any one candidate. This could not occur if the stated policy of this Government, which has been so clearly expressed, were constantly kept in mind.

Accept [etc.]

FRANK B. KELLOGG

817.00/5144 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 17, 1927—9 a. m.

[Received 1 p. m.]

335. The Supreme Court yesterday elected Dr. Joaquin Gomez of Granada president of the National Electoral Board. Gomez is a Progressive and was the candidate of the Liberal magistrates but his selection is also very satisfactory to the Government. He will take office December 1st.

MUNRO

817.00/5147a : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 17, 1927—4 p. m.

195. Your 314, November 2, 2 p. m. Dodds states

"In the report upon the 1920 election figures which I prepared for General McCoy I pointed out that within a given department there are the widest inequalities in the number of voters apportioned to the various congressional districts although the number of congressmen elected from each department is reasonably fair. As you know, the constitution provides that there is to be a congressional district for each 15,000 inhabitants within a department and one additional for any remaining fraction over 8,000.

The census of 1920 has been much criticized by the Liberals and I can hardly believe that a new census at this time would be any better received. It would be purely for the purpose of redistributing congressmen within departments for, assuming that the 1924 registration figures are a fair indication of population, the apportionment as between departments is about right.

Personally I believe that the 1924 registration is a better indication of population distribution than the 1920 census and probably better than any census which can now be taken. A new census therefore appears to me to be unnecessary. The congressional districts can be revised, if desired, in accordance with the census of 1920 or (by adopting an agreed ratio of voters to total population) in accordance with the 1924 registration.

I anticipated that this question of congressional apportionment might be raised but I advised General McCoy to avoid it if possible. I am sorry that it has come up because both sides will doubtless try to gerrymander if a new distribution is attempted, and the effort will only increase our difficulties."

General McCoy also feels that it would not be advisable to undertake a new census at this time.

KELLOGG

817.00/5147b : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 17, 1927—6 p. m.

196. General McCoy and Doctor Dodds have drawn up the transitory provisions of the Electoral Law based on their discussions with all parties in Nicaragua. They have been submitted to the Department and it concurs. The Department understands that General McCoy gave you a copy of this before leaving Nicaragua and, in order that there may be no misunderstanding due to slight changes in text which he and Doctor Dodds deemed it advisable, after further consideration, to make, the full text is transmitted herewith.

1. In order to consummate the arrangement made between the Government of Nicaragua, at its request, and the President of the United States whereby the latter will extend friendly assistance to the end that the election of the year 1928 for the Supreme Authorities may be free, fair and impartial, the election law proclaimed on March 20, 1923 together with any laws or executive decrees which may have subsequently been passed or promulgated to amend or amplify said law, is hereby suspended during the period of said election. This Act shall be known and may be cited as the Transitory Provisions Governing the Election of 1928. It shall take effect upon passage and shall continue in full force and effect until the said election of 1928 has been held and the results thereof proclaimed by Congress, and the electoral law of March 20, 1923, shall have no force or effect until said results have been so proclaimed.

2. For the purpose of said election of 1928, a National Board of Election is hereby constituted, to consist of three persons appointed by the President of Nicaragua as follows: A Chairman to be appointed upon the nomination of the President of the United States and two political members, to be appointed in like manner upon the nomination of the Executive Committee of the Conservative and Liberal Parties respectively. The Chairman of the Board shall be a citizen of the United

States. Two political *suplentes*, one of whom shall be a member of the Conservative Party and one a member of the Liberal Party, shall be chosen in the same manner as the political members *propietarios*. If any political member be unable or fails to perform the duties of his office temporarily on account of absence or other incapacity, his place shall be filled by the corresponding *suplente* during the period of absence or incapacity of such member *propietario*. The members of the National Board of Elections and the *suplentes* shall take possession of their offices from the President of the Republic of Nicaragua. The President of Nicaragua shall remove from office any political member of the National Board of Elections or *suplente* upon recommendation of the Chairman of the Board but no such removal shall be made without such recommendation. Any vacancy arising shall be filled in the manner of the original appointment.

3. The National Board of Elections as constituted herein shall have full and general power and authority to supervise said election and to prescribe regulations having the force of law for the registration of voters and for the casting and counting of their ballots and for any other matters properly appertaining to the election.

4. A majority of the National Board of Elections, one of whom shall be the Chairman, shall constitute a quorum for the transaction of business; provided that the presence of the Chairman alone shall be deemed to constitute a quorum at an emergency meeting. An emergency meeting is one the holding of which is considered by the Chairman to be indispensable to the accomplishment of a fair and free election and which has been so designated by him in formal announcement, under one clear day's notice, to the political members and *suplentes*. No action or resolution of the Board shall be valid unless concurred in by the American Chairman, and in case of a tie vote the Chairman shall have power to cast a second and deciding vote. The Chairman shall also have power to declare any action or resolution, which in his judgment is indispensable to the accomplishment of a fair and free election, an emergency measure, and such measure shall come into full force and effect as an action or resolution of the National Board of Elections 24 hours after its presentation to said Board in formal meeting assembled and its designation thereat by the Chairman as an emergency measure.

5. The National Board of Elections shall canvass the votes cast at the elections conducted under this Act, shall determine all questions and contests which may arise as to the validity and count of any such votes, and shall issue certificates of election to those lawfully elected to their respective offices. Such certificates shall be returnable to Congress to whom the National Board of Elections shall, in conformity with Article 83, clause 2 and Article 84, clause 2 of the Constitution, transmit the report of the election in detail for certification and proclamation of the results of the election.

6. With respect to the said election of 1928, the National Board of Elections, through its Chairman, is vested with the authority to command the services of the National Constabulary and to issue orders thereto for the purpose of preventing intimidation and fraud and of preserving law and order during the various acts of registration and voting.

7. The members of the National Board of Elections constituted under Section 2 of this Act shall hold office until the results of the

election are proclaimed as provided in Section 4 hereof. Upon the taking possession of office by the members of the said National Board of Elections, the term of office of each and all persons serving as members of election boards and *directorios electorales* under the law of March 20, 1923 shall cease. Upon the proclamation of the results of the election as provided in Section 5, the electoral law of March 20, 1923 shall be restored in full force and effect."

President Diaz was very anxious to receive from General McCoy the final text giving his view in the matter before December 1st. You will therefore please communicate the text above quoted to President Diaz.

KELLOGG

S17.00/5149 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 19, 1927—10 a. m.

[Received 2:15 p. m.]

340. Department's 196, November 17, 6 p. m. I suggest that the proposed transitory provisions be modified before I communicate them to the President to make it perfectly clear, if such be the Department's intention, that the existing members of the National and Departmental Electoral Boards will be definitely removed from office by the new act and that these boards will be reorganized by the election of new members after the proclamation of the results of the election of 1928. Otherwise the Liberals will maintain that the existing electoral boards which they control will resume office when the old act comes back into effect. As the effect of the new law upon the existing boards will immediately be questioned by both parties when the draft provisions are communicated to them, I believe that this question should be settled at once and that it would be more equitable to reconstitute all of the electoral machinery in 1929 than to permit the existing boards to resume office.

MUNRO

S17.00/5152 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 22, 1927—1 p. m.

[Received 9:37 p. m.]

344. My 340, November 19, 10 a. m. Moncada's representatives have now formally raised the question of the control of the electoral boards which will serve during remainder of the period 1928 to [19]32 after the completion of the Presidential election. They assert that the result of the election of 1924 under article 22 of the electoral law gave the Liberals the right to the presidency of the most of the

departmental boards and that this right was recognized by Mr. Stimson. They desire therefore that the National Electoral Board should elect these new departmental boards next month and that the new boards should hold office throughout the next 4 years although their functions would be suspended while General McCoy is supervising the Presidential election.

I have thus far not communicated the Department's 196, November 17, 6 p. m., to the President as I considered it advisable that this question should first be settled one way or the other. If the question is left open by the Department there will be a controversy which may make it possible for those Conservatives who oppose real supervision of the election to defeat the proposed law in Congress.

Please note that the phrase "existing boards" in my telegram of November 19, 10 a. m., refers to the boards which will be in existence when the new law goes into effect. Please expedite reply.

MUNRO

817.00/5152 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 29, 1927—8 p. m.

209. Your 344, November 22, 1 p. m. Doctor Dodds has drafted the following additional section to transitory provisions of the Electoral Law to cover the matter.

"Section 8. Upon the restoration of the electoral law of March 20, 1923, in full force and effect, as provided in the preceding section, the National Board of Elections and the several departmental boards of elections and *directorios electorales* prescribed in said law shall forthwith be reconstituted in the manner provided by said law for the appointment of members of said boards and *directorios electorales* respectively, and the basis for the selection of chairmen of the several departmental boards of election as prescribed in Section 22 of said law shall be the presidential election of 1928.

The respective terms of office of the members of all boards of election and *directorios electorales* appointed in accordance with this section shall expire at the time they would have expired had such boards and *directorios electorales* been appointed to serve under the electoral law of March 20, 1923 in the election for the Supreme Authorities in the year 1928."

This will cover the situation to 1932, the only difference being that in Congressional and by-elections between termination of supervision of 1928 elections and the Presidential election of 1932 the composition of the departmental electoral boards and of the precinct boards will be on the basis of the 1928 Presidential election rather than on the basis of that of 1924. Doctor Dodds points out that if the Liberals should sweep the country in the election next year they will under this

proposed Section 8 control a larger proportion of the election machinery than if the 1924 results are retained as a basis and that this consideration would probably cause them to support the proposal.

The Department will be glad to have your views regarding a possible amendment to the 1923 Electoral Law to make permanent a provision along the lines covered in this new transitory article. In other words, the Department would like to have your views as to the relative advantages or disadvantages of having Congressional elections between Presidential elections conducted by boards composed on the basis of the immediately preceding Presidential election rather than on the basis of the Presidential election 4 years previous thereto as at present. The Department is giving consideration to this matter. You will of course appreciate that it does not affect the present situation which is fully covered by the transitory provision but is merely a matter which the Department will have to take into consideration in any future permanent arrangement.

With reference to the statement of the Liberals regarding their understanding with Colonel Stimson, the latter states:

"The assertion of the Liberals that I recognized the right of their party to the presidency of the Departmental Boards is quite untrue. For the sake of avoiding any controversy in the by-elections held last September in the Liberal districts, I advised President Diaz to permit the majority of the boards in those districts to be constituted of Liberals. But I have never undertaken to express an opinion as to the party result of the election of 1924. The ticket then elected was a coalition ticket composed of both Conservatives and Liberals. I have never myself examined into the question of whether the election could be fairly called a Liberal or a Conservative victory and I have never expressed an opinion thereon. Please make this clear to all parties in Nicaragua."

KELLOGG

817.00/5172: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, December 2, 1927—10 a. m.

[Received 7:50 p. m.]

357. Since the municipal elections and especially since Chamorro's return, the efforts of the Chamorro Conservatives to obstruct the efforts of the Department to place the two parties on an equal basis for the 1928 elections have become more and more active. Gutierrez Navas, a prominent supporter of Chamorro, has published articles showing the unconstitutionality of appointing foreigners to government positions. Also, the Conservative directorate in a letter to me

approving the establishment of the *guardia* for a period of 12 years pointed out that it had constitutional objections to certain features of the agreement.⁷ Chamorrista members of Congress have been repeatedly quoted by the press as stating that they would oppose anything proposed by the Government of the United States.

Yesterday the press stated that President Diaz proposed to make a trip to the United States in the interest of the Conservative Party and that he would place the Executive power in the hands of a *designado* elected by Congress. The Foreign Minister admitted to me that this had been discussed, and that it had been urged by Chamorro who said that he had been led to believe from conversations which he had had with persons in the Department that it would be helpful to the party. The object of the proposed action is clear. President Diaz has been fair and moderate in his treatment of the Liberals and has cooperated loyally with the Legation. The Chamorristas need a man who will not be hampered by existing understandings with the Legation and who will pursue a totally different policy. Moreover, President Diaz is the principal obstacle in the way of Chamorro's nominating a person of his own choice for the Presidency. Since his present position is not an agreeable one, Diaz might be inclined to resign.

In a very informal manner I have already made it clear that I felt that the resignation of President Diaz would be very unfortunate, but that it would be helpful were I authorized to convey to the President a note to the President from the Department. Since the appointment of a Chamorrista Conservative would alarm the Liberals greatly and might cause the party as a whole to lose faith in the execution of the Stimson agreement,⁸ the presence of Diaz in the Presidency is an essential feature of the entire arrangement to assure free elections. Our task would be made infinitely more difficult if not impossible of satisfactory fulfillment thereby.

MUNRO

517.00/5174: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 5, 1927—9 a. m.

[Received 12:40 p. m.]

363. Department's November 29, 8 p. m., next to last paragraph. As a permanent arrangement I consider it preferable that the electoral machinery should be reorganized just before each Presidential election as under the present law. The law might however be

⁷ See post, pp. 433 ff.

⁸ See letter to General Moncada, May 11, p. 345.

amended to make the terms of members of the electoral boards 2 years so that these boards would again be reorganized before each congressional election on the basis of the results of the preceding election.

MUNRO

817.00/5172 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, December 6, 1927—7 p. m.

216. Legation's telegram number 357, dated December 2, 10 a. m. The views of the Department regarding the proposed retirement of President Diaz are as follows:

Consequent upon a long period of violence and chaos during which the Government of the United States could find no government in Nicaragua which it could legally recognize, Diaz was finally chosen President in such manner and form as to make it possible for the Government of the United States, as well as many other governments, to come to the conclusion that the Presidency had been filled in due compliance with the Nicaraguan Constitution. Accordingly, the Government of the United States recognized him. Notwithstanding this general recognition, the Liberals continued the fight to expel him and to obtain control of the country. The actual conditions which developed finally forced the United States to take active measures for the protection of its interests and those of its citizens. These culminated in the special mission of Colonel Stimson. Colonel Stimson finally persuaded the Liberal leaders to lay down their arms and cooperate in the restoration of peace and order. The basic moving considerations for the arrangement which resulted from Colonel Stimson's intermediation were very simple. In return for an undertaking by the Government of the United States to supervise the election of a successor to Diaz, the Liberals relinquished their efforts to expel the recognized Government under Diaz and agreed to cooperate for peace and stability. There was a definite and perfect understanding that, pending the holding of the supervised election, the *status quo* was to be maintained. In the meantime, any maneuver involving the retirement of President Diaz, voluntary or otherwise, will not only give rise to a grave suspicion of entailing some advantage to one faction or the other, but in effect would strike at the very foundation of the transaction by which peace and order have been restored. For the reasons mentioned, the Government of the United States cannot fail to regard with the utmost disapprobation such a disturbance of the *status quo* as the retirement of President

Diaz. The Government of the United States had nothing to do with the selection of Diaz. Diaz was merely recognized as the Constitutional President of Nicaragua for the time being. Upon the fact of such recognition rests the arrangement under which we are now proceeding. It is the firm and unalterable intention of the Government of the United States, at the request of the recognized Government in Nicaragua and both political parties therein, to do all in its power to see that a perfectly fair and impartial election is held. No changing of the basic facts of the situation as they were when the undertaking to supervise the election was given, can be tolerated without giving rise to certain speculations and fears regarding the impartial attitude of the Government of the United States in this matter. A change in the office of President at this time seems to the Department not only an unfortunate circumstance, as intimated in your telegram, but also a proposition which can be entertained by no one who is sincerely interested in the carrying out of the pending plan.

With reference to the first paragraph of your telegram, the Department, of course, is interested in any genuine doubt which may be raised regarding the constitutionality of the Stimson arrangement whether affecting the reorganization of the *guardia* or the appointment of General McCoy. The Department has not understood that there could be any constitutional ground of objection. The Department should be informed immediately if the Conservatives or any other faction really intend to attack the constitutionality of the arrangement, or even to cast a cloud upon its validity. The Department will then consider what measures it may be necessary to take in order to fulfill the obligations which the United States has assumed. For the purpose of making known the emphatic views of the Government of the United States you are authorized to use informally all or as much of this telegram as you deem advisable.

KELLOGG

\$17.00/\$195: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 21, 1927—3 p. m.

[Received 7:25 p. m.]

377. I today informed the Minister of the Interior and the president of the Central Electoral Board that while I wished to study the matter a little further before expressing a final opinion I thought it would be necessary if the new electoral law were not passed before the end of this month to proceed with the designation of presidents of the departmental electoral boards under the existing law. I had previously thought that this would not be necessary but it now appears

that the Supreme Court will order new elections in many municipalities, some of which probably cannot be held until after the terms of the local *directorios* expire on January 31st. It may also be necessary to hold one or two by-elections for Deputies or Senators. Consequently the country cannot be left for an indefinite period without electoral machinery even though the Legation were to assume the responsibility for advising the National Electoral Board not to comply with its clear obligations under the law.

[Paraphrase.] Since Liberals are required to be elected as presidents of the departmental boards in a majority of the departments under the existing law, I trust that my decision will encourage the Conservative majority in Congress to take prompt action on the new law. Will the Department kindly inform me before December 27 if it has any objection to the procedure outlined above? [End paraphrase.]

MUNRO

817.00/5198 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 22, 1927—11 a. m.

[Received 3:44 p. m.]

379. My December 21, 3 p. m. The Minister of Interior told me this morning that the Congress was about to adjourn over the holidays and that consequently, pending the necessary study of General McCoy's electoral project, the Government was about to propose as an emergency measure that the terms of members of the existing electoral boards be extended by congressional action until the new law should be adopted. I declined to approve this procedure on the ground that the Liberals could with some justice claim the right to control the majority of the departmental electoral boards after January 1st unless General McCoy's project should be approved before that date. I urged rather that Congress be persuaded to remain in session in view of the urgency of this matter and the desirability of early action on the *guardia* agreement.

MUNRO

817.00/5200 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 22, 1927—3 p. m.

[Received 10:30 p. m.]

381. In the elections for Senator and Deputy held in the Department of Esteli on September 4th, November 20th and November 27th, the Liberals were unquestionably successful by a majority of more

than 100 votes. In the canvass conducted by the departmental electoral board, however, the number of votes for the Conservative candidates was increased by exactly 100 in each of two precincts in spite of the fact that marines had been present and had watched the original count of the votes on election day. Furthermore, 17 Conservative, but no Liberal, votes were counted from one precinct where marines were present and saw that no voting took place.

After a careful investigation I called these facts to the attention of the Government and pointed out the very bad impression which would be created if the credentials fraudulently issued by the departmental board should be approved by the Conservative majority in Congress. Nevertheless the Congress with only a perfunctory investigation admitted the Conservative Senator and Deputy.

This is the first time in recent months where either party has openly disregarded a recommendation insistently made by the Legation. The President is still ill but I have explained to the Minister for Foreign Affairs the very bad impression which the action of the Conservative majority in Congress would create and have indicated that I would be unable to continue the very informal efforts which I have been making to dissuade the Supreme Court from disqualifying the Conservative ticket and giving the municipal government to the Liberal Party in Granada. I shall use the incident as an argument for insisting upon the immediate passage of the new electoral law.

It would be helpful if the Department would explain frankly to the Nicaraguan Minister that actions of this nature necessarily diminish confidence in the Nicaraguan Government's ability to comply with its promises of fair treatment to both parties and give color to assertions made by the enemies of the administration that the Conservative majority in Congress will seek to obstruct measures deemed necessary for the full execution of the Stimson agreement. It may be impossible legally and it is probably unadvisable as a matter of policy to attempt to compel the Congress to reverse its decision but it is desirable to make the Conservative leaders feel that improper action by themselves or their followers will react unfavorably upon their party.

MUNRO

817.00/5198: Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, December 23, 1927—7 p. m.

231. Your 377 and 379 of December 21, 3 p. m. and December 22, 11 a. m. Your action approved.

KULLOGE

817.00/5200 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, December 23, 1927—10 p. m.

284. Your 381, December 22, 3 p. m. The situation was frankly and earnestly discussed with Nicaraguan Minister who has promised immediately to cable his Government urging the seriousness of the situation and the necessity of complying strictly with its promises of fair treatment to both parties. He also said that he would urge prompt voting of electoral law.

KELLOGG

817.00/5210 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 29, 1927—4 p. m.

[Received 8:50 p. m.]

390. The two distinguished lawyers who were asked to study the new electoral law suggested no changes but rendered an opinion attacking the constitutionality of its basic features, such as the appointment of an American as president of the Electoral Board and the granting to the board of power to make regulations having the force of law.

I went yesterday with the Minister for Foreign Affairs, the Minister of Government and the president of the National Electoral Board to discuss this matter with the President at his country place where he is recuperating from his recent illness. It was decided that the law should be submitted as it stood to Congress without mentioning the lawyers' opinion. It was therefore submitted yesterday afternoon.

Since it cannot be approved before Sunday⁹ I have advised the National Electoral Board to proceed today with the choice of presidents of the departmental boards. I think that the establishment of Liberal control over the electoral machinery will help materially to bring about prompt action on the new law.

MUNRO

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE RECONSTITUTION OF THE COURTS OF NICARAGUA¹⁰

817.041/2 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, June 16, 1927—4 p. m.

[Received 7:11 p. m.]

153. In the proposed restoration of the Supreme Court aside from the ranking Conservatives it seems to be generally considered that the

⁹ Jan. 1, 1928.

¹⁰ See also pp. 285 ff., especially the letter of May 11, 1927, from Col. Henry L. Stimson, personal representative of the President of the United States, to General Moncada, leader of the revolutionary forces, p. 345.

Congress which deposed the judges was illegal; that the procedure followed violated the Constitution since the judges neither resigned nor were impeached; and that they therefore were and still are the magistrates. On the basis of these facts the principle of restoration is accepted but there remains the problem of the manner of effecting such restoration.

Two plans [are] usually advanced. I favor that which contemplates the reassumption of their functions by the legal judges without further formality than that the Chamorro judges shall simply absent themselves from the court. This follows the precedent established in the restoration of Congress. Some Conservatives, and naturally the Chamorro judges, oppose this plan. They insist that if judges must retire they should present their resignation for Congress to accept and that thereafter Congress should reelect the old judges. They argue that this is the constitutional procedure. The fallacy of this seems to lie in the fact that such a procedure on the part of a legal Congress might well be interpreted as giving legality to the unrecognized court.

The restoration can probably be effected ultimately in accordance with plan 1, the only serious difficulties being to arrange that the decisions of the court during the incumbency of the Chamorro judges shall not become subject to reopening or reconsideration with attendant needless litigation.

To secure this result some suggest that the returning judges agree in advance in writing if necessary to give blanket approval of all decisions in which the Chamorro judges participated. Others that it will be necessary to take up specially and confirm prior decisions in any cases wherein interested parties raise question.

President Diaz joins me in the hope that General Stimson and other prominent American or international lawyers might be induced by the Department to give this subject careful thought and study and offer such helpful suggestions as may seem appropriate.

EBERHARDT

817.041/3: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, July 31, 1927—4 p. m.

[Received 10:05 p. m.]

184 The restored Supreme Court has come to the conclusion that the best way to legalize the acts of the *de facto* court (about 100 altogether) is to maintain all decisions except some 10 in all which were protested by parties interested at the time decisions were rendered.

They have decided also to reinstate the magistrates of the courts of appeals at Leon, Granada and Bluefields who were expelled by *de facto* Congress under orders of Chamorro. Without precedent for solution of this difficulty, Thomas Cooley's *Constitutional Limitations*, 7th edition, pages 897 and 898, have been held most nearly applicable. Has the Department any views to communicate?

EBERHARDT

817.041/3 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, August 9, 1927—4 p. m.

120. Your 184, July 31, 4 p. m. The Department perceives no occasion now to question on the grounds of *de facto* character of courts legality of acts of Supreme Court or Court of Appeals whose judges were replaced by *de facto* authorities. Your citation to Cooley considered in point. See also volume one, Moore's *Digest*, page 54, *et seq.*

KELLOGG

817.041/4 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 19, 1927—4 p. m.

[Received 7:48 p. m.]

203. The restored Supreme Court has decided to legalize all acts of the Chamorro court by refusing to reopen any cases, but in line with what it considers its constitutional duty, in which I concur, it has restored the appellate magistrates in Leon and Bluefields who were expelled by the Chamorro Congress. This has created a conflict with the Executive whose advisers, apparently still dominated by Chamorro, deny the right of court to interfere with the acts of even a packed Chamorro Congress. Both sides seem disposed to abide by any clear and conclusive statement of the Department's views in the case. Urgently request reply.

EBERHARDT

817.041/4 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, August 22, 1927—5 p. m.

129. Legation's telegram number 203, August 19, 4 p. m. Department has noted that the restored Supreme Court of Nicaragua has

concluded to legalize all acts of the Chamorro court by declining to reopen any cases, and if the restoring of the appellate magistrates at Leon and Bluefields will not involve the setting aside of a decision of the *de facto* court, the Department concurs with its action.

The Department does not think, however, that the decisions of the *de facto* courts should now be set aside on grounds of their *de facto* character. See Department's 120, August 9, 4 p. m. Were an exception to be made even in the case of the restoring of the appellate magistrates who were expelled by the Chamorro Congress, the way might be opened to a reconsideration of other cases from both personal and political motives, leading to possible confusion and abuses. The Department believes that the magistrates referred to in your telegram should be restored. It feels, however, that if this action involves the setting aside of a sentence of the *de facto* court, it should be effected by an agreement between the executive and legislative branches and along the lines followed in the restoration of the judges of the Supreme Court, in accordance with the Stimson agreement.

KELLOGG

817.041/8 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 27, 1927—4 p. m.

[Received 8:15 p. m.]

213. The Department's 128, August 22, 5 p. m.¹¹ Stimson message delivered to Moncada as requested. The latter showed me copy of his message to Stimson which he intended as a protest against the restoration of the appellate magistrates along the lines followed in the restoration of the Supreme Court judges. He insists that the appellate judges be restored by the judge of the Supreme Court. In endeavoring to comply with the suggestion contained in last sentence of the Department's 129, August 22, 5 p. m., Diaz has already called for resignation of *de facto* judges. Since Congress must act upon these and it is impracticable to call a special Congress for the purpose, these resignations must be held awaiting next regular session. Diaz states that he will give me a written statement guaranteeing to present these resignations to Congress and to effect their acceptance by Congress in the same manner as the resignation of the *de facto* Supreme Court judges were accepted and the deposed judges reinstated. The Liberals are objecting to such procedure.

EEBERHARDT

¹¹ Not printed.

817.041/8: Telegram

*The Acting Secretary of State to the Minister in Nicaragua
(Eberhardt)*

WASHINGTON, August 30, 1927—3 p. m.

133. Your 213, August 27, 4 p. m. Last sentence. Cable briefly reasons why Liberals are objecting to procedure outlined.

CASTLE

817.041/9: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 31, 1927—9 a. m.

[Received 6:10 p. m.]

219. Department's August 30, 3 p. m. The Supreme Court has already ordered the reinstatement of the appellate judges, and the court at Leon though not at Bluefields has been turned over to the former incumbent. The Supreme Court has thus forced the issue and it maintains that it cannot reverse its action without great detriment to its prestige and without establishing in practice the right of Congress to appoint and remove judges for political reasons. The Liberals support it in this position. The Government asserting its desire to follow the procedure suggested in the Department's August 22, 5 p. m., refuses to pay the salaries or recognize the authority of the new judge at Leon. Both sides are obviously playing politics in this matter, each hoping to have the Department's support in humiliating the other. I can see no reasonable solution which will satisfy either party but I consider it very advisable that a solution of some kind be reached because there will otherwise be no appellate courts in the two departments involved and there will be a most embarrassing and potentially dangerous controversy in December when Congress meets.

[Paraphrase.] With the Department's approval, I believe that it might be possible to insist on a solution based upon the *status quo*. Under such a plan the Government would recognize the reestablished court at Leon, the Supreme Court would withdraw its order to reinstate the former judge at Bluefields, leaving to Congress which meets in December the reorganization of this court provisionally effected. Immediate instructions requested. [End paraphrase.]

EBERHARDT

817.041/9: Telegram

*The Acting Secretary of State to the Minister in Nicaragua
(Eberhardt)*

WASHINGTON, September 4, 1927—6 p. m.

137. Your 219, August 31, 9 a. m. Constitution Nicaragua clearly places with Congress power of appointment of judges of Appellate

Court. Therefore, it seems Supreme Court without authority to make such appointment.

Moreover, Supreme Court decided in the case of Liberal judges of Courts of Appeal dismissed by Chamorro Congress judges had no legal recourse in matter and that Congress had proceeded within its rights. Consequently, proposed action of Supreme Court would involve disregard of former decision of that Court and open way to similar disregard of other decisions by *de facto* courts which should be avoided for reasons stated in Department's 129, August 22, 5 p. m.

You should therefore inform President Diaz and such Liberals as request your opinion that although the restoration of the judges of the Courts of Appeal was not included in the Stimson agreement the restoration of this Court to its former membership would seem highly desirable but for the reasons given above the restoration should be made by the Congress in the manner followed in the case of the Supreme Court.

However, if after careful study of the situation in consultation with all elements concerned you feel that the compromise suggested in last paragraph your telegram under reference would be wisest solution politically please withhold action and cable Department fully giving reasons.

WHITE

817.041/12 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 15, 1927—2 p. m.

[Received September 16—9:41 a. m.]

244. Department's September 14 [4], 6 p. m. The situation with regard to the appellate courts is unchallenged [*sic*]. In Leon the court has been reorganized and the judges removed by Chamorro have taken office but the Executive power refuses to recognize them or pay their salaries. The court, therefore, is not functioning. It is difficult to obtain information from Bluefields but apparently the court there has not been recognized and its decisions are, therefore, not accepted as valid by the Supreme Court. The deadlock in both cases will apparently continue until the Department takes some further action.

I shall telegraph more fully on this subject within a few days after I have had an opportunity to discuss it with the persons concerned. Yesterday and today have been national holidays.

MUNRO

817.041/13: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 16, 1927—2 p. m.

[Received September 17—12:58 a. m.]

246. I discussed the question of the appellate courts with the President this morning. While he feels as I do that the Supreme Court acted improperly in the matter he admitted that it would be difficult to restore the Chamorro judges at Leon now that they have withdrawn from office and permitted the former judges to take possession. He felt that the Chamorro judges had done wisely in withdrawing in view of the violent agitation against them in Leon. He said that the best solution might be to recognize the court as now constituted at Leon while leaving the Chamorro judge in possession at Bluefields and he promised to discuss the matter with his legal advisers to see if the administration could properly accept such a solution.

Please inform me as soon as possible whether this solution will be acceptable to the Department if President Diaz will consent to it. I believe that it would be better to settle the matter on this basis than to attempt to compel the Supreme Court to reverse its decision and recognize the Chamorro judges. The latest date [*sic*] procedure would involve a public humiliation of the Supreme Court and might also cause further agitation at Leon like that which led the Chamorro judges to withdraw. I have thus far refrained from discussing any compromise with the Liberals or the Supreme Court in order to remain in a stronger position to insist upon the reinstatement of the Chamorro judges should the Department wish me to do so.

MUNRO

817.014/14: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 16, 1927—5 p. m.

[Received September 17—11:43 a. m.]

247. My September 15, 2 p. m. This afternoon the President sent the Minister for Foreign Affairs to discuss the appellate court question with me. Dr. Cuadra said that it would be better in his opinion to recognize the reorganized court at Leon, especially as any other action might give rise to agitation among the people of that city. He said however that the Government would like to have the Department recommend a course of action as the President would otherwise be strongly criticised by the Conservatives in Congress.

MUNRO

817.041/13: Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, September 17, 1927—3 p. m.

144. Your 246, September 16, 2 p. m. Legation's cables do not make it clear how Supreme Court has acted in its removal of judges. Supreme Court has no power to remove another judge by administrative act. All it could do would be to declare the title void in a judicial trial. Congress also apparently has no power to remove judges by administrative act. It could initiate impeachment proceedings which properly would not lie here, the judges having committed no misconduct or removable offence. Their title to their office is defective and that presents a judicial question provided it is brought up in the proper way.

On account of this, the Department has felt safest course is to have the Chamorro judges resign and Congress make a new appointment. This also has the advantage of not tending to disturb the decisions of the *de facto* judges. However, now that everybody apparently agrees that title of Chamorro judges is illegal and void in a case like Leon where the illegal judge has actually given up the office and the former legal judge has reassumed it, it seems the latter's title would be perfectly good without any further action. Therefore, if you can work out a compromise such as suggested in your 219, August 31, 9 a. m., by which both sides will recognize the reorganized court at Leon, the court at Bluefields can be hereafter reorganized according to the way suggested. Unless all parties agree, however, and it is definitely understood that the Leon case does not constitute a precedent for disregarding decisions by the *de facto* courts, a situation which should be guarded against in every possible way, the Department will have to take the definite stand that Supreme Court cannot remove the judges as an administrative act.

CARR

817.041/16: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 27, 1927—10 a. m.

[Received 7:30 p. m.]

254. I have delayed replying to the Department's September 17, 3 p. m., until I could obtain copies of the documents and decisions involved. The history of the appellate courts question appears to be as follows:

Congress under President Martinez passed a law establishing a new court of appeals at Matagalpa, and Chamorro when he wished to obtain

control of the existing courts had his Congress transfer two judges from Leon to this court. The judges affected appealed to the Supreme Court for *amparo* and it was to prevent favorable action on this appeal that Chamorro had Congress remove the majority of the members of the Supreme Court. The *de facto* Supreme Court denied the *amparo* on June 1, 1927, just before it was reorganized. The Leon judges did not go to Matagalpa but their positions at Leon were filled by Congress.

When the Supreme Court was reorganized last July the Legation was given a confidential memorandum stating that only those cases would be reopened in which the losing party had protested before the decision against the jurisdiction of the court. The Department was informed of this proposed procedure in the Legation's telegram of July 30 [31], 4 p. m., and its reply of August 9, 4 p. m., was regarded as approving this course of action. One of the few cases falling within this category according to the president of the Supreme Court was the decision denying *amparo* to the Leon judges. The court therefore reopened the case and decided that the action of the Congress in transferring the judges against their will was unconstitutional and void and that they therefore still had a right to their positions at Leon. The president of the Supreme Court asserts that he thought that the court was proceeding in full accord with the Department but the Minister felt that the court had forced the issue without giving the Legation or the Department a fair chance to study the question in all its bearings.

In Bluefields the case is different. Two judges there were removed by Congress without following the constitutional procedure because they were accused of connection with the revolution of May 1926. Their case was never decided by the Chamorro court. One of them has left the country but the other appealed to the present Supreme Court which declared the action of Congress unconstitutional and void. In this case and in that of Leon the action was technically a *recurso de inconstitucional macerata* as the court held that there could be no action for *amparo* against an act of Congress.

The president of the Supreme Court assures me very positively that the decision regarding the Leon judges will not serve as a precedent for reopening any cases decided by the *de facto* court except five or six unimportant cases of the nature described in the confidential memorandum above referred to. The policy of the court will be announced in a decision within a few days.

Since it appears after investigation that the Legation had been misinformed by certain government officials regarding the situation at Bluefields and that the new Supreme Court's action there was not a reversal of any previous decision, there seems to be no good ground for recommending that the Chamorro judge be left in possession. I

think however that compromise can be effected by which the Chamorro judge will withdraw in favor of one of the substitutes while the former Liberal judge will not take possession until after he has been reelected by Congress. This will save the pride of both parties and I hope that it will meet with the approval of the Department if both sides agree to accept such procedure.

MUNRO

817.041/16: Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, September 28, 1927—6 p. m.

149. Your 254, September 27, 10 a. m. Solution outlined by you is satisfactory to the Department.

CARR

817.041/17: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 29, 1927—8 a. m.

[Received 3 p. m.]

256. Department's September 28, 6 p. m. The appellate courts question has been settled to the apparent satisfaction of both parties. The Liberal judges at Leon will remain on the court but will receive no salary until the Congress reelects them. They will then be paid in full from the time when they were replaced in office. The Government undertakes not to interfere in any way with the functioning of the court.

The Conservative judge at Bluefields will be quietly summoned to Managua by the President so that his substitute can take his place. The Supreme Court will then recognize the Bluefields court pending the reelection by Congress of the Liberal judge who will meanwhile not attempt to take possession.

The contrivances will thus be recognized by Congress but at the same time the decisions of the Supreme Court will be respected.

After I had ascertained that the above solution would be satisfactory to both parties the Minister for Foreign Affairs and the president of the Supreme Court met at the Legation last night and accepted it. There is to be no publicity as the local press appears to have forgotten the matter and it is desirable to avoid further controversy.

MUNRO

APPOINTMENT OF LIBERAL "JEFES POLITICOS" IN LIBERAL DEPARTMENTS AS PROVIDED BY THE STIMSON AGREEMENT"

817.00/4879 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 31, 1927—4 p. m.

[Received 8:25 p. m.]

142. In accordance with agreement made before General Stimson the Liberal *jefes politicos* for 6 departments recommended by Moncada are being named by President Diaz tomorrow. Moncada had endeavored to name chief of police and collectors of internal revenue in each department also but, as these were specifically omitted in all conferences and only *jefes politicos* schedule specifically agreed upon with Diaz, I have insisted that only *jefes politicos* be named and Moncada has agreed though he will probably cable Stimson regarding the subject.

EBERHARDT

817.00/4883a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, June 1, 1927—1 p. m.

95. Colonel Stimson has received the following cable from General Moncada:

"According with the peace agreements held at Tipitapa it was clear enough that the Liberals would have the entire control of the departments given to that party. I beg you to interpose your valuable influence in order to avoid any trouble and to accomplish [comply?] with the agreement made. Respectfully, J. M. Moncada."

Colonel Stimson requests following reply be sent to you:

"Please convey to General Moncada the following answer to his cable to me: 'My recollection is clear Tipitapa agreement included only the *Jefes Politicos* of six departments but am cabling Minister to express hope generous interpretation will be given so as to accomplish conciliatory purposes of agreement.' For Minister Eberhardt. Without knowing details of present issue I should favor giving Liberals as much control in the six Liberal departments as the Conservatives retain in the Conservative departments. Deem it most important to avoid appearance of lack of generosity. Stimson"

The Department concurs in Colonel Stimson's recommendations and desires you to use your influence to the utmost to have the Tipitapa agreement interpreted liberally in order to carry out to fullest possible measure the spirit in which it was drawn up. Report by cable.

KELLOGG

²² See also pp. 235 ff., especially letter of May 11, 1927, from Col. Henry L. Stimson to General Moncada, p. 345.

817.00/4885 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, June 3, 1927—3 p. m.

[Received 6:56 p. m.]

146. Your 95, June 1, 1 p. m. This matter has been satisfactorily arranged as outlined in former telegram from the Legation, most of the appointees being reported as already having entered upon their duties.

Moncada accepted, after my assurance in which General Feland concurred, that American marines and American-trained constabulary were to be stationed at all capitals to guarantee fairness and justice. The telegram to Stimson expressed his original reaction to the proposed arrangement but not his final attitude towards the subject and was sent only because Somoso, representing Leon Liberals, insisted upon it. Moncada reiterates today his full agreement with the arrangement after having received telegram from Stimson. In the circumstances it is clear to me that no rearrangement should be attempted now. Moncada has been consistent in his attitude of refusal to deal with Diaz. While these new appointees have recognized Diaz in a way by taking oath under Minister of Interior, to give Liberals complete control these six departments including police and internal revenue would be in effect to create two separate governments since the Liberals declare openly that once in control they would defy Diaz government. More for economic than political reasons I consider it essential that Diaz government retain control police and internal revenue of the entire country and that since Moncada has expressed his intention of cooperating on the present basis no change should be contemplated. Moncada is first to admit that I am dealing openly and fairly with him and with all generosity consistent with the situation.

EBERHARDT

817.00/4885 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, June 27, 1927—5 p. m.

101. Department's 95, June 1, 1 P. M. Your 146, June 3, 3 P. M. Mr. Evaristo C. Morales, representing General Moncada and bearing letter of introduction to Colonel Stimson dated June 2, 1927, has called on Colonel Stimson and indicated that at the time he left Nicaragua General Moncada was still troubled over the matter of the local officials in the six Liberal Departments. Your telegram June 3, 3 P. M. indicates Moncada is satisfied with the arrangement of giving the Liberals the six *Jefes Politicos* but retaining to the Diaz Government all the other local officials of those provinces. While it is possible that Morales left Nicaragua before Moncada could advise him of his

concurrence with the present arrangement, nevertheless, in view of the great importance that all agreements made with the Liberals by Colonel Stimson should be carried out fully in spirit as well as in letter, the Department desires you to make immediate discreet inquiries through conversation with General Moncada in person to ascertain his views in the premises. Colonel Stimson and the Department feel that the real spirit of the Tipitapa Agreement would require that the Liberals be given the other offices in the six Liberal Departments as well as the six *Jefes Politicos* and, should there be a real issue on that point, the Department would be compelled to insist upon this with President Diaz.

If General Moncada is satisfied with the present arrangement it is satisfactory to the Department but the Department feels it imperative that you should clearly understand its views in the premises in order that you might be in a position to act should occasion arise.

Your 157, June 24, 9 A. M.¹³ Department presumes that there is a Liberal member of the Claims Commission and that he has been appointed by the President after nomination by Moncada. . . .

KELLOGG

817.00/4925 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, July 2, 1927—3 p. m.

[Received 9:22 p. m.]

166. Department's 101, June 27, 5 p. m. Moncada having been consulted states that, while he is not entirely satisfied and would prefer to have all offices in these six departments, he acquiesces, admitting at the Embassy [*sic*] that three of the six departments are being well conducted under the present arrangement with every reason to believe same result can be secured in the other three with same display of mutual forbearance and care in selection of individuals for positions.

In a very careful study of this question I have interviewed men of both parties and others directly or indirectly interested including Americans and other foreigners. I have asked Admiral Latimer to telegraph the Department his recollection of various discussions of this question and his views concerning the success of the arrangement. I am firmly convinced as ever that no change should be undertaken and most respectfully but urgently recommend that Department reconsider its decision. The above reasons should be sufficient in my opinion. Far more vital and important still is the fact that even in the very last interview between Diaz, Stimson, and myself, Diaz specifically asked whether this plan included *jefes politicos* only and Stimson replied

¹³ Post, p. 464.

quite as specifically in the affirmative. I feel very keenly that even the most "generous interpretation" imaginable of the Tipitapa agreement cannot justify us in failing to keep the word of General Stimson to President Diaz and that such failure will cause hardship and injustice, of which we should not permit Diaz to be the victim nor ourselves to be the author.

EBERHARDT

817.00/4925 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, July 7, 1927—1 p. m.

106. Your 166, July 2, 3 p. m. Department will allow the matter to rest while Moncada acquiesces. Should Moncada bring the matter up again however with Mr. Stimson or the Department, the Department would feel obliged to take the attitude clearly set forth in its No. 101, June 27, 5 p. m. Should Moncada take the matter up with you directly Department expects and desires you to take the same attitude.

KELLOGG

817.00/4935a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, July 13, 1927—7 p. m.

109. Department's telegram number 106, dated July 7, 1 p. m., and Legation's number 166, dated July 2, 3 p. m. To the end that you may clearly understand Colonel Stimson's views, he wishes to point out that there is no commitment to Moncada to give him more than the *jefes politicos* in the six Liberal departments. On the other hand there is a definite commitment to hold free and fair elections in 1928, and Colonel Stimson feels that if the Diaz government should control the internal revenue collections in all the departments, free and fair elections would be impossible.

The Department is now at work on a plan following the lines suggested by Señor Guzman¹⁴ to Colonel Stimson, which, it is hoped, will adequately solve all difficulties on this point, and when it has reached the stage where there is something more definite to discuss, the Department of course will take up the matter with both factions. Meanwhile the Department is disposed to let the matter of the internal tax collectors in the Liberal departments remain in abeyance. Whether this will be possible or not will depend to a large extent upon the attitude which the Diaz government will take toward the elections in the Liberal departments on September 4. When Colonel Stimson left Nicaragua it was understood that the Conservatives would not contest the elections

¹⁴ Nicaraguan Minister of Finance.

in the Liberal departments. If this is the case, it would be possible to allow the matter of internal tax collectors to remain in abeyance for the time being. Otherwise, the Department must consider the question whether it should not insist that these offices be handed over to the Liberals. Telegraph Department Conservative attitude toward the forthcoming September elections, and whether or not the Conservatives will present candidates.

KELLOGG

817.00/5097 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 26, 1927—11 a. m.

[Received 11 p. m.]

295. As General McCoy has doubtless informed the Department, conditions on the east coast, which have been very bad for many years, seem to be worse at present because of the increased bitterness between the political parties and the complete disorganization of the administration. It is extremely difficult to get adequate information here but it seems clear that the Liberal *jefe político* and the Conservative lower officials in Bluefields cannot work together and that the Liberal revolutionary appointees who have been left in office in many of the smaller places in accordance with Admiral Latimer's recommendation receive no money or support from Managua and pay no attention to the Government's orders. There is much discontent and some disorder. In two recent cases where the Legation has complained of mistreatment of American citizens, the Government has replied that it cannot control the local Liberal authorities and therefore can take no effective action.

President Diaz has for some time wished to remedy this situation. To this end he proposed last month to Mr. Eberhardt that ex-President Estrada who was then temporarily acting as *jefe político* at Bluefields be permanently appointed with full control over all other officials including the power to appoint and dismiss. Mr. Eberhardt favored this but Moncada refused to agree saying that Estrada though a Liberal was not well regarded by the party because of his leadership in the revolution against Zelaya.¹⁵ The President is not willing to entrust the same power to Pasos who was appointed *jefe político* at Moncada's nomination as latter would be certain to use such power for partisan purposes. I am told that Estrada is well liked by both parties on the coast and that his recent administration gave general satisfaction. It seems probable that his appointment under the conditions suggested would help to improve the situation. He is a personal friend both of Diaz and of Moncada and

¹⁵ See *Foreign Relations*, 1910, pp. 738 ff.

the latter's objection to him seems to be purely political. It would be unfortunate to lose this opportunity to improve conditions on the east coast merely because Moncada wishes to use the appointment of the *jefe politico* there to build up his own personal political machine and it has occurred to me that the Department might be able to influence Moncada to change his position. The Department might well state that it could no longer object to the appointment of Conservative subordinate officials at those places on the coast where Liberals are still in office if the proposed arrangement were not accepted. I know of no reason why the Government should be obliged to maintain Liberals in any positions except that of *jefe politico*.

I did not take up this matter myself with Moncada before his departure because I did not then have enough information about conditions on the coast. The above recommendations are based on information received from the American consul at Bluefields whose report of October 13th the Department has doubtless received,¹⁶ from the marines, and from the Bluefields representative of the Cuyamel Fruit Company.

MUNRO

817.00/5097: Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, October 28, 1927—4 p. m.

166. Your 295, October 26, 11 a. m. The matter of Estrada's appointment was discussed with Moncada. At first he was inclined not to accept Estrada as he stated that he is working for the Conservatives and expressed fear that there might be disturbances and uprisings in the Department of Bluefields under the leadership of Sandoval. He also mentioned that many of the negroes in that province are in possession of arms and expressed fear that they would be prevailed upon by the Conservatives to start trouble and uprisings in order to thwart proper elections. He stated that he would like American Marine officers to be made Chiefs of Police in all the Departments of the Republic and that if this were done he then did not care who the *jefes politicos* are. He finally stated that it would be satisfactory to him if the *Guardia Nacional* should take over the policing of the entire country. It would then not be necessary to have Chiefs of Police in any of the Departments but the Commanding Officer of the *Guardia Nacional*, under the orders of the Commander in Chief in Managua of the *Guardia*, would carry out the functions of the Chief of Police. Please discuss this matter with the Commanding Officer of the *Guardia* and see if this is feasible

¹⁶ Not printed.

and how soon the *Guardia* would be in a position to assume police jurisdiction of the country and if it is feasible discuss it with President Diaz to see if he would accept. If this is done Moncada will accept Estrada as *jefe politico* at Bluefields.

OLDS

\$17.00/\$109 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 1, 1927—11 a. m.

[Received 8:00 p. m.]

310. Department's 166, October 28, 4 p. m. It will be impractical for many months and possibly for several years to establish the *guardia* on the east coast because even the full amount provided for in the pending agreement¹⁷ will not make possible the assumption of control over the entire Republic. As fully explained in my telegram of October 15, 4 p. m.,¹⁸ it will be impossible to establish the *guardia* even in the most important of the western provinces in time to be of use in connection with next year's elections unless additional funds are provided at once. I cannot sufficiently emphasize the fact that this is the most urgent problem now confronting us here. Our experience with the approaching municipal elections has made it clear that there can be no real freedom of suffrage next year unless there is an efficient police force under American direction. The *guardia* should be established in the western departments first, not only because its presence in the more populous districts will be necessary during the elections, but also because its establishment on the east coast will present special difficulties arising from difference of race and language and lack of means of communication and will probably cost approximately \$200,000 per annum more than the amount provided for in the *guardia* agreement.

[Paraphrase.] The suggestion of Moncada offers no solution for the existing difficulties on the coast. It is my opinion that his objections to Estrada are specious and are intended merely to cover his desire to obtain political advantage from the control of certain appointments and perhaps from the discontent arising from present conditions which naturally reacts against the Conservative administration. I do not think that Estrada is working for the Conservatives because the American consul at Bluefields informed me that two of Estrada's sons were arrested and threatened on October 19 by the Conservative police for circulating a proclamation issued by Moncada. I was reliably informed that the recent temporary administration of Estrada was conspicuously impartial. Colonel Gullick

¹⁷ Agreement between the United States and Nicaragua establishing the *Guardia Nacional de Nicaragua*, signed Dec. 22, 1927, p. 433.

¹⁸ Not printed.

who made a trip to the east coast recently believes him to be the best man for the position by far. I have made cautious inquiry among Liberals in Managua and I do not believe that Sandoval would start an uprising unless told to do so by Moncada. It is clear that under an effective administration trouble among the natives would not be so likely to occur as it is under existing conditions. [End paraphrase.]

MUNRO

817.00/5122a : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 5, 1927—4 p. m.

182. Moncada yesterday in New York told Colonel Stimson that he would consent to the appointment of Estrada and would telegraph his representative accordingly. However he urged very strongly that the National Guard be organized in Bluefields as promptly as possible in order to take over these local police functions. He regarded this as most important for the safety of the elections.

KELLOGG

817.00/5138 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 14, 1927—10 a. m.

[Received 1:15 p. m.]

332. Estrada was appointed *jefe politico* of Bluefields on November 12th.

MUNRO

COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA

817.00/4910

*The Nicaraguan Minister of Finance (Guzman) to the Personal Representative of the President of the United States (Stimson)*¹⁹

[Translation]

MANAGUA, May 15, 1927.

ESTEEMED SIR: My Government has deemed it necessary and desirable to submit for the consideration of the President of the United States a request for his good offices and aid in the establishment of a new system of free and just elections on which it is hoped will rest political stability in Nicaragua.²⁰

However, such a reform alone would not be sufficient for the development of an economically sound Government. It is known that in

¹⁹ Left at the Department of State by Colonel Stimson on May 23, 1927.

²⁰ See letter of May 15, 1927, from President Diaz to President Coolidge, p. 356.

modern times political stability rests on economic stability and it is in order to obtain this latter that my country is in particular need of the friendly assistance of the American Government.

The losses and destruction of a long civil war have shaken its resources and furthermore, even before, the fiscal methods of our Government required a revision making them more stable and efficient.

I believe, and the majority of serious and thoughtful citizens share this belief, that for these reforms the aid of Americans who have acquired the necessary experience in the midst of greater economic activity would be of great utility. We have already on another occasion obtained such aid, maintained for some years in the collection of our customs duties and in the formulation of a portion of our budget by virtue of a Financial Plan.²¹ At this time, it would be very useful to extend the system to other fiscal activities of the Government in order that its introduction in our country may enable us to train our administrative personnel in the ideas of thrift and prudence.

As the basic point of such reforms we must make use of our credit abroad or rather in the United States for the purpose of procuring a loan for works of constructive progress and to revive the country from the exhaustion in which the losses of the present war have left private activities. We realize that it is not possible to obtain this credit without reforming our system and it is very possible that our Congress would give the reforms its full approval if they reached it in the form of conditions for the credit operation destined to provide the Republic with such means of rehabilitation and progress.

I have the honor to submit herewith a memorandum which establishes our primary needs and their possible remedies.

With assurances [etc.]

F. GUZMAN

[Enclosure—Translation]

*Memorandum Submitted by Nicaraguan Government as to Present Evils in Fiscal Methods of Legislation and Administration and as to Suggested Lines of Reform in Which American Assistance Is Desired*²²

I

PRELIMINARY STUDY ON BEHALF OF THE PRESIDENT OF THE UNITED STATES

This memorandum is not intended to be exclusive but merely suggestive; nor does it attempt to go into details. It is assumed that

²¹ Loan agreements and financial plan of 1917 and 1920. See *The United States and Nicaragua, a Survey of the Relations from 1909 to 1932* (Washington, Government Printing Office, 1932), pp. 33 ff., 37 ff.; also *Foreign Relations*, 1917, pp. 1132-1141.

²² Each page of the Spanish text bears the initials of Minister of Finance Guzman.

the President of the United States may desire to avail himself of expert advice in his examination and study of these problems. The Nicaraguan Government is entirely willing that he should do so and stands ready to pay the reasonable expenses of such examination.

II

EVILS OF PRESENT FISCAL ADMINISTRATION

The following are some of the principal evils which are shown by experience to exist in the present fiscal methods of the Nicaraguan Government:

(1) *Taxation.* The collection of internal revenue taxes is defective owing to the lack of complete information as to the true capital of each taxpayer and also owing to the slight attention which some of the officials charged therewith have given to the discharge of their duties.

(2) *Imperfect Formulation of the Budget.* Under the present Financial Plan, not only is the total amount of the budget limited but the High Commission was given power to control the expenditure of a portion of the budget and thus indirectly to control the formulation of that portion of the budget. This was done with the hope and expectation that this partial control would exercise a salutary influence over the remainder of the budget. This hope has not been realized. The items of our present budgets in the unsupervised portions are neither wise, progressive, nor economical.

(3) *Imperfect Control of Expenditures under the Budget.* There is at present no sufficient system of pre-audit by which the expenditure of government money can be confined to the lawful objects in the budget for which it has been appropriated. It has become a common evil for the Executive to switch expenditure from the purpose authorized to another purpose owing to the abnormal circumstances of the present war.

(4) *Imperfect Methods of Accounting and Post-Audit.* Nicaragua labors under an antiquated and complicated system of accounts. It sorely needs the institution of a modern, simple system with the possibility of daily check. At present, owing to the absence of such system and the power of check, there are not only great shortages in the collection of taxes from the amounts assessed but there are also great shortages between the amounts actually collected and the amounts finally deposited in the Treasury. There are also great delays under the present system. All of these evils could be reduced by the institution of a modern system of accounts with rigid post-audit.

(5) *Power of Congress to Increase Items in the Budget.* Although under the present Financial Plan the total amount of the

budget is limited, Congress has the power to switch and increase the items thereof and practices this power with results by no means favorable. Strong items are eliminated in favor of the increase or addition of items not authorized in the original budget.

III

SUGGESTED REMEDIES

(1) The present American control over the collection of customs should be extended to the collection of the internal revenue taxes. The assessment of the capital tax should be controlled or reviewed by a non-partisan Board, composed of one Conservative, one Liberal, and an American Chairman.

(2) The entire budget should be formulated by a Board of Estimate containing a majority of American members. It is suggested that this Board might consist of the Finance Minister, the resident American member of the High Commission, and the American Comptroller, hereafter mentioned. This Board should have the power to formulate and present to Congress the entire budget, carefully itemized with reference to the objects for which appropriations are proposed.

(3) For the purpose of supervising the expenditure of funds authorized under the budget, there should be instituted the system employed in many American States and cities of a Comptroller who should have the power to examine and check all proposed expenditures with a view to ascertaining whether they come properly within the authorized items of the budget and the counter-signature of whose office would be necessary to such expenditures. This Comptroller should be a person recommended by the President of the United States. The present power of the Executive to switch items in the budget should be forbidden and subjected to check by the Comptroller.

(4) The Comptroller should be given the power by law to establish a new and modern system of accounts throughout the Government containing a modern and effective system of post-audit (or rather check) by the Comptroller's office.

(5) The President of the Republic of Nicaragua shall diligently endeavor to obtain from Congress the approval of the budget formulated as above indicated.

IV

CLAIMS COMMISSION TO ADJUST CLAIMS FOR LOSSES INCURRED DURING THE RECENT WAR

In order that the losses of the recent war may be speedily adjusted upon a fair and non-partisan basis, the Nicaraguan Government

favors the prompt creation of a Claims Commission for that purpose consisting of three members, one Liberal, one Conservative, and one American, all nominated by the President of the United States and appointed by the President of Nicaragua. The American member shall be the Chairman of the Commission and his vote shall be necessary to every action and resolution thereof.

LOAN EXPENDITURE COMMISSION

When the credit of Nicaragua has been restored by the establishment of peace under a stable and constructive program of electoral and fiscal reform, it will undoubtedly be desirable and probably necessary to borrow money on the issue of her bonds to be devoted to the payment of war claims as well as to long needed economic development such as the construction of a transcontinental railway, the improvement of her highways, or other enterprises. As to this, it is only necessary to say now that, if that time comes within the life of the present administration, it will favor the following limitations upon its power in the expenditure of the proceeds of such bonds:

(1) In view of the speedy approach of a free and fair election in October 1928, it will favor the postponement of the use of a definite proportion of the proceeds of said bonds—certainly not less than one-half thereof—to be disposed of only after the inauguration of the administration elected at such election of 1928.

(2) It will further favor the creation of a nonpartisan Loan Expenditure Commission consisting of one Liberal, one Conservative, and one American member, to which Commission shall be entrusted the duty of determining the purposes towards which all of the proceeds of said bonds shall be devoted. All of the members shall be nominated by the President of the United States and appointed by the President of Nicaragua. The American member shall be the Chairman of the Commission and his vote shall be necessary to every action and resolution thereof. The War Claims Commission proposed under Paragraph [Section] IV above could also serve as such a Loan Expenditure Commission.

817.51/1833: Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 22, 1927—9 a. m.

[Received 7:37 p. m.]

252. The economic situation of Nicaragua and the financial situation of the Government are remarkably good considering the events of the past two years. Except in the relatively unimportant north-

ern departments, and to a less extent in those departments where the appointment of Liberal *jefes politicos* and the consequent division of authority has caused administrative confusion with resulting disorder, conditions are practically normal. Heavy rains have assured good crops and the prospects for coffee and sugar are especially promising. The customs receipts have been good and the internal revenues fair despite the decline in the receipts from the Liberal departments. The million dollar loan from the New York bankers is being reduced with astonishing rapidity and will probably be paid off by July 1st, 1928.²³ The Government is seriously inconvenienced financially by the fact that so large a part of its income goes to amortize this loan but it nevertheless has enough money for current expenses and even to continue the paving of Managua and the road work. Hill²⁴ informs me that he believes that the expenses of the constabulary and of the elections can probably be met out of ordinary revenues although the money now in sight will not permit so rapid an expansion of the constabulary as the Marine officers consider desirable.

Under the circumstances there is no real necessity for a loan in the near future except to pay the war claims which may amount to from four to five million dollars after adjudication. The time limit for the submission of these claims expires December 31st and it will not be possible until then to estimate their amount with any accuracy. Prompt payment of these claims would undoubtedly have a good economic and probably a good political effect but a loan for this purpose is not so urgently necessary as it would be if the general economic situation were less satisfactory.

There is little apparent interest in the loan question here at the present time. The Government has no plans of its own and is awaiting information regarding the intentions of the bankers and the Department. There is little discussion of the matter in the press.

While I do not feel qualified as yet to express an opinion as to the probable political reaction here to any loan proposal, I think that it would be advisable to proceed very slowly in approving or recommending any new financing.

At least two factions of the Liberal Party would probably carry on propaganda against such financing both in Nicaragua and in the United States.

It seems advisable to send the above by telegraph because the next mail will not reach the Department for about a month. It would be

²³ Agreement between the Republic of Nicaragua and the Guaranty Trust Company of New York and J. & W. Seligman & Co., signed Mar. 21, 1927. See post, pp. 421 ff.

²⁴ Roscoe R. Hill, American member of the High Commission of Nicaragua.

very helpful if the Department would inform me by telegraph of any important developments in connection with any proposed new Nicaraguan financing.

MUNRO

817.51/1833 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, September 24, 1927—2 p. m.

148. Your 252, September 22, 9 a. m. No new proposals for Nicaraguan financing have been brought to the Department's attention since you were in Washington. You will be kept informed by telegraph of any important developments.

CARR

817.51/1837 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 4, 1927—8 p. m.

[Received October 5—1:59 p. m.]

262. My 252, September 22, 9 a. m. After visiting Leon and talking with people there I am of the opinion that a loan sufficiently large to permit at least the payment of claims would be generally approved by the Liberal Party. The Liberal departments suffered more than any other district from the effects of the war and the economic situation there, which is still bad, would be greatly improved by a partial compensation for war losses. Moncada and other Liberal leaders favor a loan for this purpose. Apparently they are not inclined to approve a larger loan for other purposes although they might do so if there were a sufficiently strict control over the expenditure of the proceeds. A few Nicaraguan propagandists in the United States and Salvador will attack any loan but they do not represent any large or responsible element in Nicaragua itself.

It will be difficult, except in connection with a loan contract, to persuade the Nicaraguan Government to follow up the control of the internal revenues as the President is very reluctant to do so without gaining something tangible in exchange. I am still discussing the internal revenue matter with him.

The President informed me in strict confidence that the bankers had advised him by cable that they would submit a loan project for his consideration within a few days. He has apparently no information about the nature of the project.

MUNRO

817.51/1838 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA[, undated].

[Received October 7, 1927—6:05 p. m.]

267. Legation's 262, October 4, 8 p. m. Minister of Finance called this morning to urge the desirability of establishing at the present time a definite system of control which would assure the future financial stability of the Republic. He said that both parties would accept such control now to get money for the payment of the war claims, especially as neither knew who would control the next administration. He still advocates the adoption of the system outlined in his letter of May 15th to Mr. Stimson but he thinks that such a system could only be approved by Congress if it were part of a loan contract.

After careful investigation I have reached the conclusion that there is nothing in the local political situation which makes it inadvisable to proceed at once with a loan for the payment of claims and for such other purposes as the Government and the chosen representatives of the Liberal Party may approve. I have thus far discussed financial questions only in a very general way with the Liberals, however, and I cannot ascertain their position definitely until I know the general outlines of the plan which will be presented. It will be helpful when the time comes if the Department can telegraph an outline of any plan under consideration in order that I may discuss it confidentially with leaders on both sides to ascertain whether any of its features are unacceptable.

In my opinion it would be advisable to present definite and comprehensive financial proposals in time for consideration by Congress next December.

While I understand that the bankers have contemplated paying only a small amount of the claims in cash I believe that it would be far better from the Nicaraguan point of view to pay them entirely in cash rather than partly in internal bonds which would cost the Government as much as a foreign loan but which would be far less valuable to the recipients. I do not believe that a loan providing only a small amount of cash for claims would be well received by either party or that it would materially help the economic situation.

The loan might also well include funds to start the Atlantic Railway and a small amount for roads, especially for a road from Leon to the Segovias which would have both military and political advantages. General McCoy²⁵ was much interested in this latter project and I suggest that he be consulted regarding it. I think however that

²⁵ Gen. Frank B. McCoy, chairman of the commission to supervise the Nicaraguan elections of 1928. See telegram No. 467, Sept. 2, 1927, from the Minister in Nicaragua, p. 360.

it would be well to discuss the matter with the Liberal Party before finally adopting any plan for a loan for other purposes than the payment of claims.

While the loan should be dependent on the adoption of a plan for financial control I think that the latter would be better received if it came from the Department rather than from the bankers. The Department could properly suggest a revision of the financial plan which would be attached to the loan contract like former financial plans but which would include not only those provisions considered necessary by the bankers to safeguard the loan but also such provisions as the Department and the Nicaraguan Government might consider desirable for the future financial stability of the Republic. The plan should in my opinion include the reforms outlined in Guzman's letter of May 15 above mentioned as well as a definite provision for the support of the *guardia nacional*, an increase if possible in the amount of \$115,000 now allotted monthly for the budget, and perhaps in the amount allotted to the High Commission and definite regulations covering the appropriation and expenditure of the surplus. I do not believe that any foreign control more stringent than that proposed in Guzman's letter would be necessary or justifiable in Nicaragua.

Guzman's plan apparently contemplates three principal American officials: a collector of revenues, a comptroller, and a high commissioner. There seems to be no reason why the two latter should not be combined. The collector of revenues and the comptroller, with the Minister of Finance, could then form the budget commission.

MUNRO

817.51/1845a: Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, October 22, 1927—5 p. m.

157. It is Cumberland's²⁶ plan to resign and undertake financial work in New York, leaving Haiti by December 15. He has informed the Department that he could make a financial survey of Nicaragua in the interim between leaving Haiti and beginning work in New York. It is estimated that the time required for this work is about three months. Both McCoy and Dodds²⁷ believe this advisable. Department desires your views. Cable.

KELLOGG

²⁶ Dr. W. W. Cumberland, since 1923 Financial Adviser and Customs Receiver for the Haitian Government.

²⁷ Dr. Harold W. Dodds, who accompanied General McCoy on his trip to Nicaragua. Dr. Dodds had been engaged in 1921 by the Nicaraguan Government to assist in the revision of the electoral laws of Nicaragua. See *Foreign Relations*, 1923, vol. II, pp. 605 ff.; also 1914, 1924, vol. II, pp. 227-28.

817.51/1846 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, October 26, 1927—10 a. m.

[Received 4:01 p. m.]

294. Department's telegram dated October 22, 5 p. m. In my opinion a financial survey of Nicaragua would be very useful. It would be advisable to secure the approval of both parties in advance and to emphasize the fact that the object of the financial survey is to outline a constructive program which would meet the approval of both parties and be carried out for the most part by the incoming administration. The survey should be undertaken with dispatch in order that the results thereof may have the approval of Congress before the Presidential campaign is too far advanced. Also, it would be desirable, if preferred, to proceed with a loan in order to render possible at least a partial payment of claims and the setting up of American control over internal revenue, if a plan could be devised in which the findings of the survey would be the basis for subsequent issues.

MUNRO

817.51/1846 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, October 28, 1927—5 p. m.

167. Legation's telegram number 294 dated October 26, 10 a. m. The Department believes that Cumberland's survey should precede and not follow a loan. In the first paragraph of the memorandum attached to Guzman's letter to Stimson of May 15 it is assumed that the Government of the United States would want to make use of expert advice in studying and examining the different Nicaraguan problems before reaching a decision. To carry out this idea Cumberland would be sent to Nicaragua to undertake a financial survey so that the Department would be in a position to know the financial requirements of Nicaragua. The Department is of your opinion that it would be advisable to secure the approval of both parties in advance and it desires you to take the matter up with them in this sense as quickly as possible. Cable reply because Department must send early answer to Cumberland. Moncada favors the survey and will cable the Liberal Party to that effect.

Moncada suggests that the entire internal revenues be placed in the hands of American collectors. It is immaterial to him whether it

is placed in the hands of the Collector General of Customs or whether a new organization is formed. He suggests that the former could be accomplished quicker and without any new agreements, and is in favor of doing so without associating it with the loan. He desires very much that Americans take over the collection and administration of the internal revenues as soon as possible. He fears that otherwise a fair election will be rendered much more difficult. Accordingly, you may discuss the subject with President Diaz and inquire whether he is still disposed to have Ham²⁸ take over immediately the collection and administration of the internal revenues and to have a financial survey undertaken by an expert like Cumberland to determine Nicaragua's future financial program.

OLDS

817.51/1848 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, October 31, 1927—5 p. m.

[Received November 1—1:35 a. m.]

307. Department's telegram number 167, October 28, 5 p. m.

As reported in Legation's telegram of October 11, 10 a. m.,²⁹ President Diaz after having fully discussed the matter with me was very unwilling to ask Ham to assume control of the internal revenues except in connection with a loan. Unless I am instructed to insist firmly that he must take the action suggested regardless of his objections, I fear that it will be useless to take up the matter with him again. I think he would give his assent, but he would avoid responsibility by advertising the fact that he was acting under protest because of compulsion by the United States. I think that the advantages to be derived from obtaining a control of the internal revenues now over a few months later would not be sufficient to justify the creation of a situation of this kind, because the Department will require the loyal cooperation of the President in meeting the difficulties which will probably be created by the Conservative majority in the approaching session of Congress. In view of this I have hesitated to take further action in the matter without the assurance that the Department realizes the situation here and without definite instructions as to how far the Department desires me to go.

On October 13, I mailed the Department a full report.²⁹

MUNRO

²⁸ Clifford D. Ham, Collector General of Customs of Nicaragua.

²⁹ Not printed.

817.51/1849 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, November 1, 1927—noon.

[Received 4:24 p. m.]

311. Department's 167, October 28, 5 p. m. The proposal to send Cumberland to make a financial survey meets with the hearty approval of both President Diaz and the representatives of the Liberal Party. Will the Department or the Government of Nicaragua bear the expenses?

MUNRO

817.51/1849 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 2, 1927—6 p. m.

178. Your 311, November 1, noon. Department will bear expenses of Cumberland's visit to Nicaragua.

KELLOGG

817.51/1850a : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 5, 1927—1 p. m.

181. The bankers called at Department yesterday. They decline to give up their half of the surplus revenues but are now studying the matter of granting an open credit to Nicaragua for \$150,000 on January first and up to \$225,000 on July first if a loan has not been concluded by that time, \$300,000 of this to be used for constabulary and \$75,000 for electoral expenses if needed. Bankers think this advance could be secured by second lien on same revenues hypothecated for million dollar loan and thus not tie up any new source of revenue. When the loan is issued it will take up these credits as well as the million dollar loan.

KELLOGG

817.51/1850 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 5, 1927—3 p. m.

[Received 11 p. m.]

320. I suggest that I be authorized to issue a statement explaining the purposes of Cumberland's survey as soon as it is definitely decided

The Government to investigate the country's resources and in order that the Department and the Nicaraguan Government might have the benefit of his recommendations regarding the of a loan and the new public works and other purposes for which the proceeds should be used. I think that it would be well to say that any comprehensive financial program which adopted would necessarily under present conditions have to be approved by both political parties and that the Department approves the suggestion already made by the Nicaraguan Government that the proceeds of any loan should be spent under bipartisan control. I have already talked along these lines with many members of both parties but I think that a public statement would have a good effect. Any biographical data about Cumberland would also be of interest.

As in the case of other matters discussed by the Department with Moncada, the Liberal newspapers announced Cumberland's visit almost before I had an opportunity to speak to the President about it. One paper stated that Moncada had arranged that the survey be made.

MUNRO

817.51/1851 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 10, 1927—5 p. m.

185. Your 307, October 31, 5 p. m. and despatch 504, October 13.⁸⁰ Department approves your action and hopes to be able to give further instructions shortly upon receiving study mentioned Department's 181, November 5, 1 p. m.

KELLOGG

817.51/1850 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 14, 1927—5 p. m.

193. Your 320, November 5, 3 p. m. You are authorized to issue the following statement:

"Dr. Cumberland has been designated by the Department of State, at the suggestion of the Nicaraguan Government and with the approval of both parties in Nicaragua, to make a financial and economic survey of Nicaragua and to investigate the country's resources and requirements in order that the Nicaraguan Government and the Department of State may have the benefit of his recommendations regarding the advisability of a loan to provide additional

⁸⁰ Latter not printed.

revenues for the payment of claims arising out of the recent revolution, for establishing and maintaining an efficient National Guard to preserve order in the country, for the expenses of holding presidential elections next year and for the construction of the long contemplated and apparently much-needed railway between the capital and the Atlantic Coast and for other public works. Dr. Cumberland, who has had wide experience in such matters, will endeavor to ascertain how much money is really needed, how large a loan could and should be contracted for, how the national revenues can best be increased with the least strain and disarrangement of business and commerce, what recommendations can be made for an adequate accounting system and for expending the revenues with a minimum of waste.

It is well understood that any comprehensive financial program which might be adopted under present conditions would of course have to be approved by both political parties in Nicaragua, and the Nicaraguan Government has already suggested that the proceeds of any loan contracted in the near future should be spent under bipartisan control.

Dr. Cumberland's salary and expenses are being paid by the Department of State.

Dr. Cumberland was employed by the Peruvian Government in 1921 and introduced notable reforms in the customs administration of that country. In 1923 he was appointed Financial Adviser and Customs Receiver for the Haitian Government and has remained in that office, where he has been signally successful, until last month when he resigned to enter private business. The Department is glad that it has succeeded in persuading him to undertake this work in Nicaragua before entering upon his new occupation, and feels that the people of Nicaragua are to be congratulated on being able to obtain his services."

KELLOGG

817.51/1869

The Secretary of State to Doctor W. W. Cumberland

WASHINGTON, November 29, 1927.

SIR: The Department has been much gratified at your acceptance of its proposal that you undertake to make a financial and economic survey of Nicaragua between the time that your resignation as Financial Adviser-General Receiver in Haiti becomes effective and the time when you enter upon your new occupation. It is understood that you will sail from Haiti about December 4 en route to Nicaragua; that you will remain in that country for such time as may be necessary to carry out the work which you are undertaking; that you will be reimbursed by the Department of State at the same rate of compensation that you are now receiving in Haiti plus the expenses of the trip; and that you are authorized to employ a secretary at a suitable salary, his salary and expenses for the trip to be paid by the Department of State.

The Department of State and the Nicaraguan Government desire you to make a thorough investigation of the resources and requirements of Nicaragua in order to have the benefit of your recommendations regarding the advisability of a loan for some or all of the following purposes:

For the expenses of holding presidential elections next year;

For the establishment of an efficient National Guard to preserve order in the Republic;

For the survey of a railway between the capital and the Atlantic coast, provided in your opinion such a railway is necessary and desirable;

For the payment of claims against the Nicaraguan Government arising out of the recent revolution;

For public works other than the aforementioned proposed railway; and

For the refunding of bonds now outstanding, or for other purposes.

It is desired that you ascertain as nearly as practicable how much money would be needed by the Nicaraguan Government for each of the above purposes; and the extent to which, if at all, funds for each of those purposes could be provided out of current revenues likely to be received by the Nicaraguan Government. In case you conclude that the Nicaraguan Government should contract a loan, you should recommend the size of the loan that could and should be made. You should also recommend whether any increase in the national revenues of Nicaragua would be desirable in connection with such a loan, and if so, how much increase might be effected with the least disarrangement to economic activity. Your views are also desired as to the security which should be assigned to a loan, if you conclude that a loan will be advisable, and as to the manner in which expenditure of the proceeds of a loan, if made, might best be handled to ensure their effective application to the purposes agreed upon.

Furthermore, your recommendation will be welcomed in regard to other related aspects of the financial problems of Nicaragua, including fiscal administration, accounting and internal revenues.

It is understood by the Department of State and by the Nicaraguan Government that any comprehensive financial program which might be adopted under present conditions would of course have to be approved by both political parties in Nicaragua, and the Nicaraguan Government has already suggested that the proceeds of any loan contracted in the near future should be spent under bi-partisan control.

You will understand that the need of the Nicaraguan Government for additional revenues is represented to the Department as being somewhat urgent and it is therefore desired that you make the survey indicated above and submit your report and recommendations to the Department of State at as early a date as is possible, consistent with a

thorough and careful fulfillment of this task. You may count upon the assistance of the American representative in Managua, the American member of the High Commission, and the Collector General of Customs in Nicaragua for such aid and assistance as you may require and for such information and statistics as you may desire in the course of your labors.

There is enclosed a copy of the report of the High Commission for the year 1926.⁸¹

I am [etc.]

FRANK B. KELLOGG

ATTITUDE OF THE DEPARTMENT OF STATE WITH RESPECT TO LOANS
BY AMERICAN BANKERS TO THE GOVERNMENT OF NICARAGUA

817.51/1722 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, January 6, 1927—9 p. m.

[Received January 7—1:35 p. m.]

9. Nicaraguan Congress is now considering law for bond issue to cover claims of present and recent revolutions as claims to be passed upon by Mixed Claims Commission consisting of one Liberal, one Conservative and the American High Commissioner Hill. To furnish additional funds for the service of the new bonds the proposed law provides a second customs surcharge of twelve and one-half percent and a coffee export tax. Under article IV, section 2, of the Financial Plan,⁸² these revenue increases must be approved by the High Commission consisting of Hill, Helton [*Jenks?*]⁸³ and the Minister of Finance and the bankers Brown Brothers and Company and J. and W. Seligman and Company.

Hill and Ham⁸⁴ believe that the increases should not be approved unless the entire proceeds are earmarked for the new bonds. Reasons: bonds unsecured by earmarked revenues would not have high market value; Government might not meet service regularly owing to extraordinary needs.

President Diaz and bank manager Rosenthal believe new increases should be turned into general revenues and left free for pledging a new loan if needed. They think the proposed bond loan would be amply secured by the general surplus, which they point out, judging from the receipts of the past 7 years, may be expected to be adequate

⁸¹ Not printed.

⁸² For the loan agreements and financial plan of 1920, see *The United States and Nicaragua, a Survey of the Relations from 1909 to 1932* (Washington: Government Printing Office, 1932), pp. 37 ff. For the loan agreements and financial plan of 1917, see *ibid.*, pp. 33 ff., and *Foreign Relations*, 1917, pp. 1188-1141.

⁸³ Jeremiah Jenks, Umpire for the High Commission of Nicaragua.

⁸⁴ Clifford D. Ham, Collector General of Customs of Nicaragua.

to take care of a three to four million dollars bond issue in addition to certain existing fixed charges against the surplus as for the National Guard, paving, sanitation, etc. They believe that the borrowing power of the Government should not be weakened by assigning too large revenues for the proposed loan and leaving no special revenues free [for] a future loan. They argue that while the recipients of the bonds might desire to have the bonds over secured as recommended by Hill, the best interests of the Government should be considered first. The new bonds are not to be sold to obtain funds for productive purposes but are to be given in settlement of claims many of which will be excessive. However just claims may be, they can only be satisfied within the limits of the financial possibilities of the country and to sacrifice its best interests merely to make the bonds attractive for claimants would seem unnecessary and unwise. Rosenthal states that the bankers interested in the financial plan concur in these views and that Diaz has been so advised. If Jenks agrees with the bankers he and the Minister of Finance can out vote Hill.

It would appear to me that claimants receiving the new bonds would be amply secured if given a first lien on the surplus subject to the present prior emergency lien thereon of the customs bonds of 1918 which has never been invoked as the specially ear-marked revenues for that issue have always produced more than necessary allowing so far an average yearly amortization more than twice the required minimum. The approved claims will probably amount to some three million dollars, therefore to treat claimants as generously as the guaranteed customs bondholders of 1918 will necessitate such hypothecation of revenues as will make Government borrowing in the near future for constructive purposes for Atlantic Railway, et cetera almost impossible.

I have been consulted by members of the Government who wish to follow the Department's indications and by the Americans interested here and have stated that I would submit the question to the Department and request instructions.

EBERHARDT

817.51/1722 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, January 12, 1927—4 p. m.

18. Legation's telegram number 9, dated January 6, 9 p. m. It is the feeling of the Department that the present is not the opportune time for President Diaz to commence negotiations to float a new bond issue or to transact other financial matters with American interests.

The restoration of peace is the first essential, and the consideration of the financial needs of Nicaragua should wait upon this. The Department perceives no objection to the Mixed Claims Commission.

KELLOGG

817.51/1727 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 9, 1927—9 p. m.

[Received February 10—12:40 a. m.]

38. Rene Keilhauer of Hebard Company³⁵ who arrived today has consulted me about a loan not to exceed \$300,000 which he contemplates offering the Government, half of the proceeds or at least \$100,000 to be used to continue street pavement by his [company?]. Loan to be secured by Nicaraguan Government increases reported in my telegram of January 31, 4 p. m.³⁶ Please advise whether the Department sees any objection to this loan.

EBERHARDT

817.51/1730

Memorandum by the Chief of the Division of Latin American Affairs (Morgan)

WASHINGTON, February 11, 1927.

As there will presumably be no bond issue floated in this country it would appear to be unnecessary for the Department to make a formal statement of no objection with regard to this loan. The Department said when President Diaz expressed the desire to borrow money in New York that this did not seem to be a propitious time for the Nicaraguan Government to attempt any new financing and the reestablishment of peace appeared to be the first essential for Nicaragua. However, the Diaz Government appears to be very hard pressed for funds and the Minister has been complaining to me almost every day about the situation. According to him the chief reason why the revolution is progressing so successfully is that Diaz has no money to pay his troops. The Minister has asked whether the United States Government would not advance money to Diaz and I have of course told him that that was quite impossible. It did not occur to me that any private interest would be willing to advance money to Diaz at this time but if Hebard and Company are willing to do it without asking any special guarantee from the State Department or any more protection than is usually accorded to a company making a loan to a recognized government I think it would be an excellent thing

³⁵R. W. Hebard and Company, engineers and contractors, of New York, N. Y.

³⁶*Ante*, p. 306.

and might materially assist the Department in carrying out its Nicaraguan policy. Apparently of the \$300,000. advanced \$100,000. will be used for street paving, a most worthy object, and \$200,000. for combating the revolution, also under the circumstances a very worthy object.

MORGAN

817.51/1728: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 11, 1927—11 a. m.

[Received 1:25 p. m.]

41. Legation's 38, February 9, 9 p. m. Keilhauer is now deposed [*disposed?*] to grant request of Nicaragua for loan of \$600,000 at 8 percent with security as already stated and an option of one year on purchase of 51 percent or more or [*of?*] stock in the national railroad of Nicaragua for American company. Cable urgently if this agreeable to Department.

EBERHARDT

817.51/1727: Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 11, 1927—6 p. m.

39. In reply to Legation's telegram number 38, February 9, 9 p. m., the Department is not disposed to offer any objection to this loan.

KELLOGG

817.51/1728: Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, February 12, 1927—6 p. m.

40. Your 41, February 11, 11 a. m. The Department is not disposed to offer any objection to this loan.

KELLOGG

817.51/1733

Memorandum by the Chief of the Division of Latin American Affairs (Morgan) of a Conversation With Mr. R. W. Hebard of R. W. Hebard and Company of New York, February 15, 1927

Mr. Hebard, after asking about the Nicaraguan situation, said that he had been approached by the Government of Adolfo Diaz for a loan of \$600,000. He described the urgent need of the Diaz Govern-

ment for money and said that he would like to help them out in any way possible but frankly he did not know where he could raise the money in New York. In any case he knew that the first question asked by his associates would be the attitude of the Department of State and this was what he desired to know.

In reply Mr. Morgan told Mr. Hebard that the Department was not disposed to offer any objection to such a loan as the Department realized that the Diaz Government needed money to maintain order in the country. As Mr. Hebard knew, the Diaz Government had been recognized and the United States was according it moral support, therefore the United States would not view with disfavor a loan to the Diaz Government at this time but Mr. Hebard must distinctly understand that this was not to be interpreted in any way as a guarantee of the loan by the State Department nor must he consider that the State Department was suggesting or recommending that the Diaz Government be aided financially. Mr. Hebard said that he thoroughly understood that the State Department was simply making the usual statement that it made when a loan was contemplated to a recognized constitutional government, that the State Department had no objection to offer. Mr. Morgan said that was correct. Mr. Morgan said that he understood that this loan did not contemplate any bond issue in the United States, that it was simply an advance of money by private interests to the Diaz Government for a short term and bearing a fair interest. Mr. Hebard said yes, the loan would be \$600,000. for two years with interest at eight per cent, there might be some initial discount, that this would depend upon the people who were prepared to put up the money, he could not say but in any case he would see that the Diaz Government got fair terms. \$100,000. of the money was to be used for paving and the rest for current expenses. Mr. Morgan said that he had heard that the loan also carried some provision for an option on the purchase of the railroad. Mr. Hebard said that was incorrect, that the negotiations for an option on the railroad were entirely separate and were to be carried on in the interests of Mr. Minor C. Keith. The loan transaction was a personal matter between Mr. Hebard and the Diaz Government.

MORGAN

817.51/1732: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 21, 1927—2 p. m.

[Received 6:11 p. m.]

50. Legation's 41, of February 11, 11 a. m. American backers of Keilhauer have apparently refused his proposition and he now proposes to arrange a personal loan on the condition, among others, that

Diaz sell him 51 percent of the stock of the National Bank of Nicaragua for the \$300,000 which it cost the Government some two years ago. Badly as Diaz needs funds and anxious as he is to sell the bank to any strong reputable American banking group he has refused to consider this offer which might place the \$2,500,000 reserve in control of parties of unproven stability. Diaz still hopes to make an immediate temporary loan and later larger ones with the New York bankers now managing this bank regarding which the bankers will likely be approaching the Department.

EBERHARDT

817.51/1732 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua
(Eberhardt)*

WASHINGTON, February 23, 1927—5 p. m.

45. Your 50, February 20 [21], 2 p. m.

(1) Department in principle has no objection to suitable arrangements for providing money to the Diaz Government. While urgent need of funds is recognized, Department would not nevertheless view with favor certain types of arrangements that might conceivably be proposed. For example, the Department considers that the present is not an opportune time for the Nicaraguan Government to sell the bank or railway. In principle, however, it might be possible to devise some means whereby these might be pledged as security for temporary loan, but without commitment as to ultimate disposition thereof by the Government.

(2) You will appreciate that while Department has raised no objection to original Keilhauer proposal Department has not been consulted regarding latest proposal outlined in your No. 50, February 20 [21], 2 p. m. concerning which Department's views in the light of present information are as stated above.

(3) In view of competition between Keilhauer and other interests for whom Rosenthal speaks, Legation will of course be impartial and will inform all interested parties including the President that before final arrangements are concluded Department must be fully informed of particulars thereof, pending which time there is no commitment other than in principle.

(4) Cable immediately amount of receipts from customs and other sources since January first and also after consulting Ham and Hill indicate probable yield during next two or three months. Department also will be glad to have available data as to actual and prospective expenditures during the corresponding periods, also estimate of outstanding urgent obligations and minimum credit needs.

CHW

817.51/1735 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 23, 1927—9 p. m.

[Received February 25—11:20 a. m.]

54. Department's telegram 45, February 23, 5 p. m. Keilhauer proposition apparently definitely refused. Rosenthal group only one now known to be directly interested and it is hoped that they or any other reputable bankers may be induced to make an immediate loan to Diaz government. He understands that bank and railroad should not be sold now; that they may however be pledged as security but before any final arrangement is concluded the Department must have full particulars.

The following figures of receipts and expenditures have been received from the customs bank and High Commission. Receipts for January and February: Customs, \$260,000; internal revenue, 130,000; war loans, 131,000; surplus revenues, 215,000. All these receipts have been spent except some 50,000 accruing to surplus revenues. Estimated receipts for the March, April, May: Customs, 340,000; internal revenue, 225,000; from the recent increases in taxes, 100,000.

Expenditures accrued for troops, 150,000; loan from Keilhauer, 50,000; loan from Commercial Bank, 35,000; provisions from local merchants, 50,000. Estimated expenditures for the March, April, May: budget, 425,000 plus 10,000 daily for the Army so long as it must be maintained. Assuming that the Army may be disbanded in a month and that war claims may be paid by bond issue some 400,000 to 500,000 are estimated as necessary for urgent obligations and credit needs. Excess customs deposits and internal revenue will of course not be available till July first.

EBERHARDT

817.51/1744

Memorandum by the Economic Adviser (Young) of a Conversation Between Himself, the Chief of the Division of Latin American Affairs (Morgan), and Mr. Tillinghast of the Guaranty Trust Company of New York, February 28, 1927

Reference was made to telegrams and letters from Mr. Tillinghast and Mr. Loree, dated February 23 to 26,²⁷ concerning the proposal of a loan to Nicaragua and the possibility of inflation of the currency.

Mr. Tillinghast referred to the urgent need of the Nicaraguan

²⁷ None printed.

Government for funds in order to maintain its position and suppress the revolution. He doubted whether these funds could be procured by an ordinary loan transaction; it was doubtful whether the pledge of the shares of the National Bank and the railway by way of security would appeal to American bankers. So far as Mr. Tillinghast could see, the only recourse would be to an inflation of the currency. Mr. Tillinghast was of the opinion that probably an inflation of not more than 1,000,000 cordovas could be effected without serious consequences. Although he was very reluctant to consider inflation, he nevertheless believed that it might be justified as a last resort.

Mr. Morgan and Mr. Young indicated that, while the Department in principle would be disposed to raise no objection to a loan to the Nicaraguan Government for proper purposes and on proper conditions, the Department could not state that it would raise no objection to a policy of inflation. It was pointed out that the probability is that inflation, once begun, would lead to a serious loss of confidence within Nicaragua; that there would be a rush to convert local currency into foreign exchange; and that it was practically certain that the result would be depreciation of the currency, a rise in the rate of exchange, and depletion of the reserve fund unless the sale of drafts thereon should be stopped.

While Mr. Morgan and Mr. Young indicated that the Department would in principle be favorably disposed toward a proper loan, they made no statement that could be interpreted as a request that money should be advanced to Nicaragua.

A[RETHUR] N. Y[OUNG]

817.51/1739 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 3, 1927—9 a. m.

[Received 11:35 a. m.]

66. Diaz government, desperately in need of funds, will today make still another effort to secure loan for which Diaz will offer bankers all stock in railway and bank and lien against all revenue produced by recent law. It is hoped that the terms may be such that the Department can and will approve. Otherwise Diaz sees no alternative but an emergency emission of cordobas which sound bankers unite in declaring will result in inflation and disaster to Nicaraguan finances.

E[BERHARDT]

817.51/1742 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 9, 1927—5 p. m.

[Received 8:20 p. m.]

73. Legation's 66, March 3, 9 p. m. [a. m.] I most earnestly concur in Diaz request that I recommend the Department approve loan of \$1,000,000 now being proposed by New York bankers under conditions which will be explained to the Department. Diaz accepts bankers' recommendation that a commission be formed consisting of the President of Nicaragua, Minister of Finance, Manager National Bank of Nicaragua and American Resident High Commissioner, for purpose of controlling all expenditures none of which shall be made except in installment as needed and only after approval of majority of the commission. Interest will be 7 percent and is to be paid only as money is used. Immediate payments to be met from loan are \$300,000 to bank and \$75,000 to Keilhauer.

EBERHARDT

817.51/1746

The Guaranty Trust Company of New York and J. & W. Seligman & Co. to the Chief of the Division of Latin American Affairs (Morgan)

513-27

NEW YORK, March 11, 1927.

Foreign Department

[Received March 12.]

DEAR SIR: Enclosed herewith please find copies of recent cables exchanged between the undersigned and the Manager of the National Bank of Nicaragua, Inc.⁸⁸ in which the Manager of the Bank transmits the request of the President of the Republic of Nicaragua for a loan to his Government and of our response indicating our willingness to extend such a loan on certain terms and conditions as to security and otherwise, all of which are fully set forth in the enclosed memorandum. An essential one of these conditions is that the said loan shall meet with the approval of the Department of State of the United States.

In connection with this matter, permit us to point out that should the loan be consummated we propose to charge 1% commission on the maximum amount of the proposed loan, viz.—\$1,000,000.—together with 6% per annum interest on such amounts as may from time to time be actually advanced and outstanding.

The undersigned J. & W. Seligman & Co. have recently sold to the public \$8,000,000.—Republic of Costa Rica External Secured Sinking Fund 7% Gold Bonds on a basis yielding to the purchasers about

⁸⁸ Not printed.

7.40% per annum; also \$2,500,000.-7½% Secured Sinking Fund Gold Bonds of the Department of Cauca Valley of the Republic of Colombia on a basis yielding to the purchasers about 7.90% per annum, and other loans of similar character have been marketed by the undersigned and by other banking houses on approximately similar terms.

The advance which we are now prepared to make is therefore not attractive to us by reason of the rate of interest thereon nor is the advance for the purpose of protecting any existing loan or investment, for we have no loans or investments in Nicaragua. We have, however, been actively connected for many years with the constructive work that has resulted in the rehabilitation of the currency, the regulation of the budgetary and other financial affairs of the Republic, the present method of collection of the Customs and the rehabilitation of the railroad, and, having confidence in the good faith and rectitude of the Government of that country, we are willing to do what we can to preserve the labor of many years which has yielded great benefits to Nicaragua and has been a source of pride and gratification to us, by helping the established Government tide over the present period of difficulty without inflating its currency or parting with any of its National assets at a sacrifice.

We respectfully request a formal expression from your Department as to whether or not you approve of the proposed loan.

Yours very truly,

GUARANTY TRUST COMPANY OF NEW YORK
R. F. LOREE, *Vice President*

J. & W. SELIGMAN & Co.

[Enclosure]

Memorandum for the Department of State Covering Terms and Conditions of Proposed Loan to the Government of Nicaragua

NEW YORK, *March 11, 1927.*

Loan: The Guaranty Trust Company of New York and J. & W. Seligman and Co., subject to the approval of the Department of State and subsequent approval of the Congress of Nicaragua, will loan \$1,000,000. to the Government of Nicaragua for one year with option of renewal for a further six months for any unpaid balance not in excess of 50% of the principal amount of the loan, for a commission of 1% and interest at 6% per annum on amounts from time to time outstanding and option on future Nicaraguan financing. Drafts to be drawn on Guaranty Trust Company of New York and/or J. & W. Seligman & Co., or both, as may eventually be determined. Interest to be charged from date of payment of each draft.

Repayment: The Government of Nicaragua will guarantee the repayment of the loan with interest from the revenues produced by the new taxes, subject to prior lien of English Bonds, authorized by the Congress of Nicaragua in accordance with Law of the 21st of January, 1927; from 50% of the superavit as determined on the 30th of June and 31st of December of each year, and from such dividends as may be declared by the Ferrocarril del Pacifico de Nicaragua and the National Bank of Nicaragua.

Security: As security for this loan the Government of Nicaragua will deposit with the Guaranty Trust Company of New York and/or J. & W. Seligman and Co., or both as may be determined, the shares representing the total capital stock of the Ferrocarril del Pacifico de Nicaragua, the National Bank of Nicaragua, Inc. duly endorsed and, as a further guarantee, will obtain such resignations from the present Board of Directors of the Ferrocarril del Pacifico de Nicaragua and the National Bank of Nicaragua, Inc. as will permit the election of a majority on each Board from nominees of the Guaranty Trust Company of New York and J. & W. Seligman & Co.

Disposition of Proceeds: It is understood and shall be so ratified by the Congress of Nicaragua that the funds available from this loan shall, except for the repayment to the National Bank of Nicaragua of \$300,000.—plus accrued interest due by the Government of Nicaragua, be used exclusively for the maintenance, equipment, purchase of supplies and discharge of troops on the re-establishment of order and for such other absolutely essential expenditures as may be necessary for the re-establishment of law and order in the Republic of Nicaragua and to this end the President of the Republic of Nicaragua will appoint a Commission consisting of the Minister of Finance, Manager of the National Bank of Nicaragua, Inc. and the American Resident High Commissioner, which will have absolute authority by a majority vote, always subject to the approval of the President of the Republic in each instance, to authorize disbursements of funds available under this loan, and drafts drawn to provide funds for such disbursements must bear the signatures of at least two members of the Commission and to become negotiable only on the authorization by the President.

Authorizations: Before any funds are made available to the Government of Nicaragua all the terms and conditions governing this loan, provided approval is given by the State Department, must be authorized by the Congress of Nicaragua and the Congress must further specifically authorize the Financial Agent to sign the loan contract with the bankers, and endorse the stock of the Ferrocarril del Pacifico de Nicaragua and National Bank of Nicaragua, Inc. in the name of

the "Government of Nicaragua Minister of Finance" and deliver such stock so endorsed to the Guaranty Trust Company of New York and/or J. & W. Seligman & Co. or both as may be determined.

GUARANTY TRUST COMPANY OF NEW YORK
By: R. F. LOREE, *Vice President*

J. & W. SELIGMAN & Co.

817.51/1746

The Secretary of State to the Guaranty Trust Company of New York

WASHINGTON, *March 12, 1927.*

SIRS: I beg to acknowledge the receipt of your letter (513-27 Foreign Department) and memorandum of March 11, 1927, regarding your interest in a loan of \$1,000,000 to the Republic of Nicaragua, for the purposes and under the terms indicated therein.

In reply to your request for an expression of this Department's views, I beg to state that in the light of the information before it, the Department of State offers no objection to this financing.

You of course appreciate that, as pointed out in the Department's announcement of March 3, 1922,²⁹ the Department of State does not pass upon the merits of foreign loans as business propositions nor assume any responsibility in connection with such transactions, also that no reference to the attitude of this Government should be made in any prospectus or otherwise.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

Assistant Secretary

817.51/1747

The Guaranty Trust Company of New York to the Secretary of State

513-27

NEW YORK, *March 15, 1927.*

Foreign Department

[Received March 16.]

SIR: We have the pleasure to acknowledge receipt of your communication of the 12th instant, and in view of the contents thereof we have advised the President of Nicaragua, through the Manager of the National Bank of Nicaragua, Inc., that we, in conjunction with Messrs. J. & W. Seligman & Co., are prepared to make a loan of \$1,000,000.—to the Republic of Nicaragua for the purposes, and under

²⁹ *Foreign Relations*, 1922, vol. I, p. 557.

the terms and conditions indicated in the memorandum of the 11th of March, 1927, which was sent to you with our letter of the same date.

We are [etc.]

GUARANTY TRUST COMPANY OF NEW YORK,
R. F. LOREE, *Vice President*

817.51/1775 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, March 25, 1927—4 p. m.

[Received 5:50 p. m.]

82. Both Houses of Congress have ratified loans contract which was signed by President Diaz this morning.⁴⁰ The President is calling meeting of the three members of commission this afternoon to arrange for initial payments. The generals in the field have been instructed to inform their men that they will receive their pay next week which it is hoped will improve morale.

EBERHARDT

AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA
ESTABLISHING THE "GUARDIA NACIONAL DE NICARAGUA," SIGNED
DECEMBER 22, 1927

817.1051/145 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, May 8, 1927—4 p. m.

[Received May 9—12:40 a. m.]

128. President Diaz, acting upon authority conferred upon him by the laws which provide for the formation of a Nicaraguan constabulary, has today addressed a note to me requesting that an American officer be designated to instruct and command that organization and that such officer be authorized to name the additional American and Nicaraguan officers considered necessary to form the larger nonpartisan constabulary frequently mentioned in Legation's telegrams [and] most recently General Stimson's statement on page 2, telegram 124, May 5, 11 a. m.⁴¹

Admiral Latimer⁴² states that he is ready, if authorized, to detail such an officer and assistants from among marines now stationed in

⁴⁰ For text of loan agreement signed March 21, 1927, see Managua *La Gaceta*, March 25, 1927.

⁴¹ See the second paragraph of the statement as quoted in telegram No. 124, May 5, from the Minister in Nicaragua, p. 339.

⁴² Commander of the Special Service Squadron.

Nicaragua. It is believed that such authority should be granted as the best means of bringing early tranquility to Nicaragua under peace terms now being considered and also to reduce to a minimum the number of marines necessary for such results. Stimson and Admiral concur.

EBERHARDT

817.1051/147 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, May 11, 1927—6 p. m.

87. Your 128, May 8, 4 p. m. The President approves President Diaz's request and Admiral Latimer will be instructed accordingly by the Navy Department.⁴³

KELLOGG

817.1051/191

The Chargé in Nicaragua (Munro) to the Secretary of State

No. 576

MANAGUA, December 29, 1927.

[Received January 14, 1928.]

SIR: With reference to my telegram No. 388 of December 22, 5 P. M.⁴⁴ stating that the agreement for the establishment of the *Guardia Nacional* of Nicaragua had been signed on December 22, I have the honor to transmit herewith copies of the Agreement in triplicate as signed, both in English and in Spanish.

Under separate cover I am transmitting for the Department's archives the signed original of the Agreement in question, containing the text in parallel columns in English and Spanish.

I have [etc.]

DANA G. MUNRO

[Enclosure]

Agreement Between the United States and Nicaragua Establishing the "Guardia Nacional de Nicaragua," Signed December 22, 1927

Whereas the Republic of Nicaragua is desirous of preserving internal peace and order and the security of individual rights, and is desirous of carrying out plans for the maintenance of domestic tranquillity and the promotion of the prosperity of the Republic and its people;

⁴³ Col. Robert Rhea, on May 12, was appointed Chief of the Constabulary; and Col. Elias R. Beadle, on August 20, was commissioned a general in command of the *Guardia Nacional de Nicaragua* (file Nos. 817.00/4775 and 817.1051/164).

⁴⁴ Not printed.

And whereas the assistance and co-operation of the Government of the United States is deemed essential to an early realization of the measures to be adopted;

And whereas the United States is in full sympathy with these aims and objects of the Republic and is desirous of contributing in all proper ways to their attainment the undersigned duly authorized thereto by their respective Governments have agreed as follows:

The Republic of Nicaragua undertakes to create without delay an efficient constabulary to be known as the *Guardia Nacional de Nicaragua*, urban and rural composed of native Nicaraguans, the strength of which and the amounts to be expended for pay, rations, and expenses of operation, et cetera, shall be as set forth in the following table:

COMMISSIONED PERSONNEL

| | <i>Per annum</i> \$ Gold |
|---|-----------------------------|
| 1 Brigadier General | 3,000.00 |
| 1 Colonel, Chief of Staff | 2,500.00 |
| 3 Colonels (Line) at \$2,400.00 per annum | 7,200.00 |
| 1 Colonel, Quartermaster | 2,400.00 |
| 1 Colonel, Medical | 2,400.00 |
| 4 Majors (Line) at \$2,100.00 per annum | 8,400.00 |
| 1 Major, Paymaster | 2,100.00 |
| 1 Major, General Headquarters Inspector | 2,100.00 |
| 1 Major, Law Officer | 2,100.00 |
| 2 Majors, Medical, at \$2,100.00 per annum | 4,200.00 |
| 10 Captains, at \$1,800.00 per annum | 18,000.00 |
| 2 Captains, Medical, at \$1,800.00 per annum | 3,600.00 |
| 20 First Lieutenants, at \$1,200.00 per annum | 24,000.00 |
| 2 First Lieutenants, Medical, at \$1,200.00 per annum | 2,400.00 |
| 20 Second Lieutenants, at \$900.00 per annum | 18,000.00 |
| 3 Second Lieutenants, Medical, at \$900.00 per annum | 2,700.00 |
| 20 Student Officers (Cadets), at \$600.00 per annum | 12,000.00 |
| 93 | \$117,100.00 |

ENLISTED PERSONNEL

| | <i>Per annum</i> \$ Gold |
|--|-----------------------------|
| 4 Sergeants Major, at \$40.00 per month | 1,920.00 |
| 10 First Sergeants, at \$35.00 per month | 4,200.00 |
| 10 Q. M. Sergeants, at \$30.00 per month | 3,600.00 |
| 60 Sergeants, at \$25.00 per month | 18,000.00 |
| 120 Corporals, at \$18.00 per month | 25,920.00 |
| 20 Field Musics, at \$14.00 per month | 3,360.00 |
| 840 Privates, at \$12.00 per month | 120,960.00 |

BAND

| | <i>Per annum</i> \$ Gold |
|---|-----------------------------|
| 1 Leader | 1, 200. 00 |
| 1 Assistant Leader | 900. 00 |
| 10 Musicians, 1st class, at \$30.00 per month . . . | 3, 600. 00 |
| 10 Musicians, 2nd class, at \$25.00 per month . . . | 3, 000. 00 |
| 15 Musicians, 3rd class, at \$20.00 per month . . . | 3, 600. 00 |
| 37 | \$12, 300. 00 |

ENLISTED MEDICAL PERSONNEL

| | <i>Per annum</i> \$ Gold |
|--|-----------------------------|
| 1 First Sergeant, at \$35.00 per month | 420. 00 |
| 4 Sergeants, at \$25.00 per month | 1, 200. 00 |
| 20 Corporals, at \$18.00 per month | 4, 320. 00 |
| 10 Privates, at \$12.00 per month | 1, 440. 00 |
| 35 | \$7, 380. 00 |

OPERATIONS AND MAINTENANCE

| | |
|---|----------------|
| Civil employees; uniforms and clothing; Arms equipment and target practice; remounts and forage; Motor vehicles and maintenance; repairs and replacements; Transportation of Supplies and Troops; Maps, stationery and office supplies; Intelligence service; rent, repairs and construction of barracks; Gasoline, kerosene; Lights; Tools and miscellaneous expenditures for operations and maintenance of the Constabulary | \$200, 000. 00 |
|---|----------------|

RATIONS

| | |
|--|----------------|
| Expenses of procuring and preparing rations for 1136 enlisted at \$0.30 per diem | \$124, 392. 00 |
|--|----------------|

PRISONS AND PENITENTIARIES

| | |
|--|----------------|
| Operation and Maintenance | \$40, 000. 00 |
| Medical Supplies and Maintenance of Constabulary Hospitals, Prison Dispensaries, etc | \$10, 000. 00 |
| GRAND TOTAL | \$689, 132. 00 |

The foregoing provisions shall be regarded as the minimum requirements for the *Guardia Nacional de Nicaragua*. If the condition of the Nicaraguan Government's finances shall so warrant, the strength of the *Guardia Nacional*, commissioned and enlisted, and the expenses thereof may be increased upon the recommendation of the Chief of the *Guardia Nacional* and upon the consent in writing of the President of Nicaragua.

If the condition of the Nicaraguan Government's finances shall so warrant a suitable Coast Guard and a suitable Aviation Unit may

upon the recommendation of the Chief of the *Guardia Nacional de Nicaragua* and upon the consent in writing of the President of Nicaragua be made a part of the *Guardia Nacional de Nicaragua*, similarly officered and manned with appropriate ranks and subject in the same manner to regulations and discipline as provided herein for the personnel of the *Guardia Nacional de Nicaragua*.

II

The *Guardia Nacional de Nicaragua* shall be considered the sole military and police force of the Republic, clothed with full power to preserve domestic peace and the security of individual rights. It shall have control of arms and ammunition, military supplies and supervision of the traffic therein throughout the Republic. It shall have control of all fortifications, barracks, buildings, grounds, prisons, penitentiaries, vessels, and other government property which were formerly assigned to or under the control of the Army, Navy and Police Forces of the Republic. It shall be subject only to the direction of the President of Nicaragua; all other officials desiring the services of the *Guardia Nacional de Nicaragua* shall be required to submit requests through the nearest official of that organization. The Guard of Honor for the Palace of the President shall be a company of selected men and officers from the personnel of the *Guardia Nacional*, and will wear distinctive insignia while employed on this service.

III

All matters of recruiting, appointment, instruction, training, promotion, examination, discipline, operation of troops, clothing, rations, arms and equipment, quarters and administration, shall be under the jurisdiction of the Chief of the *Guardia Nacional*.

IV

Rules and regulations for the administration and discipline of the *Guardia Nacional de Nicaragua*, Prisons and Penitentiaries, shall be issued by the Chief of the *Guardia Nacional* after being approved by the President of Nicaragua. Infraction of these rules and regulations by members of the *Guardia Nacional* may be punished by arrest and imprisonment, suspension from duty without pay, forfeiture of pay, or dismissal, under regulations promulgated by the Chief of the *Guardia Nacional* and approved by the President of Nicaragua.

V

Other offenses committed by members of the *Guardia Nacional de Nicaragua* shall be investigated by officers of the *Guardia Nacional*

as directed by the Chief of the *Guardia Nacional*. If it should appear upon investigation that an offense has been committed, the offender will be turned over to the civil authorities.

VI

Courts-martial constituted under the rules and regulations of the Chief of the *Guardia Nacional* may try native Nicaraguan officers and enlisted men of the *Guardia* for infraction of the rules and regulations. The findings of the courts-martial of the *Guardia Nacional* after approval of the Chief are final, and not subject to appeal or review except by the Supreme Court of Nicaragua and then, only in questions of excess of power or questions of jurisdiction.

VII

Persons violating the Regulations (if there is no civil law) or the Laws (if there is a civil law) governing traffic in arms, ammunition and military stores, shall be punished by a fine of from fifty to one thousand cordobas or imprisonment of from ninety days to five years, or both; for which purpose the Government of Nicaragua will present to Congress a project of law to amend the criminal laws in the sense indicated.

VIII

The *Guardia Nacional de Nicaragua* shall be under the control of the President of Nicaragua and all orders from him pertaining to the *Guardia Nacional* shall be delivered to the Chief thereof. All other civil officials desiring protection or the services of the *Guardia Nacional* will make application to the senior officer of the *Guardia Nacional* in that locality.

IX

An adequate amount as provided in Article I of this Agreement shall be appropriated annually to defray the expenses for pay, allowances, equipment, uniforms, transportation, administration and other current expenses of the *Guardia Nacional de Nicaragua*. Allotments for the various needs of the *Guardia Nacional* shall be made from this sum by the Chief of the *Guardia Nacional*.

X

Reports of expenditures shall be made by the Chief of the *Guardia Nacional* as directed by the President of Nicaragua and audited in accordance with the law.

Savings effected under any title may be expended under any other title upon written approval of the Chief of the *Guardia Nacional*.

XI

The laws necessary to make effective the above provisions shall be submitted to the legislative body of Nicaragua.

XII

In consideration of the foregoing the Government of the United States in virtue of authority conferred on the President by the Act of Congress approved May 19, 1926, entitled "An Act to authorize the President to detail officers and enlisted men of the United States Army, Navy and Marine Corps to assist the governments of the Latin-American Republics in military and naval matters"⁴⁵ undertakes to detail officers and enlisted men of the United States Navy and Marine Corps to assist the Government of Nicaragua in the organizing and training of a constabulary as herein provided.

All American officers serving with the *Guardia Nacional* of Nicaragua shall be appointed from personnel of the United States Navy and Marine Corps by the President of Nicaragua upon nomination of the President of the United States. They will be replaced by Nicaraguans when the latter have successfully completed the course of instructions prescribed by the Chief of the *Guardia Nacional de Nicaragua* and have shown by their conduct and examination that they are fit for command.

Officers and enlisted men of the United States Navy and Marine Corps serving with the *Guardia Nacional* will not be tried by Nicaraguan civil courts or courts-martial but will be subject to trial by court-martial under the laws of the United States for the government of the Navy.

In witness whereof, the undersigned have hereunto signed their names and affixed their seals in duplicate, in the city of Managua, this twenty-second day of December, 1927.

[SEAL]

DANA G. MUNRO

[SEAL]

CARLOS CUADRA PASOS

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION
OF BANDIT ACTIVITIES IN NICARAGUA

817.115 B 98/2 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, June 30, 1927—2 p. m.

[Received 9:35 p. m.]

16 [161]. Some days ago Sandino, formerly employed by the American, Charles Butters, in his San Albino mines in Nueva Segovia,

⁴⁵ 44 Stat. (pt. 2) 555.

entered the mine at the head of some 50 armed bandits and, threatening death to Butters if he refused, carried off some 500 pounds dynamite with corresponding fuse and caps with which to "kill Yankees". He is now reported to have forcibly taken over the mine, driving off all foreigners and to be running mine to its ruin. Butters has appealed to the Legation and General Feland for protection of interests which he states amount to some \$700,000, he being reported as largest if not sole owner. The General states that he is preparing an expedition to that region but may find it difficult to detail guard to the mine itself which is remote and difficult of access. Rumors, seemingly well-founded, indicate a considerable number of stragglers and small groups poorly armed proceeding to join Sandino. Considerable criticism is expressed by foreigners here of our policy of having landed marines primarily to protect American and foreign lives and property and then by lack of protection permitting what seems certain early destruction of this property said to represent probably the largest investment in Nicaragua of any one particular individual American.

EBERHARDT

817.00/4936 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, July 17, 1927—8 p. m.

[Received July 18—2:04 a. m.]

170. Sandino with far superior numbers is reported to have attacked the 87 American marines and Nicaraguan National Guard at Ocotal early yesterday morning and to have suffered decisive defeat after some 16 hours fighting when our aeroplanes made the rout complete, marines losing 1 killed and 2 badly injured. Sandino is reported to have lost about 200. It is not supposed that Sandino will offer much further serious resistance. Feland is sending detailed report.

EBERHARDT

817.00/4936 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, July 18, 1927—5 p. m.

112. Extremely important to have at earliest possible moment fullest details concerning Sandino's attack upon American Marines and Nicaraguan constabulary and all events leading up to this attack. Continued telegraphic reports should be made promptly as news is received by you. Afternoon papers here carry sensational reports concerning bombing operations. Please rush reply.

KELLOGG

817.00/4940 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, July 20, 1927—2 p. m.

[Received July 21—11 a. m.]

175. The Department's 112, July 18, 5 p. m. Sandino is reported to be an erratic Nicaraguan about 30 years of age with wild Communist ideas acquired largely in Mexico where he spent several years prior to his return to Nicaragua about a year ago via the Coco River plentifully supplied with arms which he gave to followers in northern Nicaragua or concealed there, meantime working at the Butters American mine in San Albino till he finally joined Moncada this spring. Refusing to lay down arms with other Moncada generals he returned to northern Nicaragua where he has since roamed at will with a few followers committing most every known depredation and acts of outlawry. Following his confiscation of the American mine referred to in my telegram number 161, June 30, 2 p. m., the number of his admiring followers increased and he repeatedly wrote insultingly to Captain Hatfield, commander of the garrison at Ocotal, offering his men all loot and plunder they might find and also to join them drinking "Yankee blood" the day soon to be when they would take that town. One o'clock Saturday morning July 16th, Sandino led 300 or 400 men, plentifully armed with rifles, machine guns and bombs made from powder confiscated from the American mine, in an attack on 39 marines and 48 Nicaragua constabulary garrisoned at Ocotal, the latter well supplied with small arms but with only two machine guns. The fight continued till middle of the afternoon with a loss to Sandino of more than 200 men when our airplanes arrived and with bombs and machine gunfire routed the attacker[s] who fled in disorder, Sandino with them.

It should be remembered that for weeks, General Feland had given Sandino every opportunity to surrender or leave the country and had brought upon himself much blame for not having dealt with the bandit more severely. Furthermore, Feland had ordered his men to make no advances against Sandino and only to fire on the enemy if they should be attacked. Sandino apparently considered this course of the Americans as a sign of weakness; preached Communism, Mexican brotherly love and cooperation, and death to the Americans, until the rabble of the whole north country joined him in his plan to massacre Americans there and to set up his own government at Ciudad Sandino, the name to which El Jicaró the capital of the department had been changed by him. He has met with complete disaster and while some persons think [he will] collect as much cash as possible

and leave for Honduras or return to Mexico it is quite possible that in his fanaticism he will continue his outlawry though quite unlikely on any large scale any time soon.

Throughout the whole affair the forbearance and self-restraint exercised by our troops under most exasperating provocation should call for nothing but commendation from all good Americans just as their magnificent stand against such heavy odds in the actual fight should fill any American with pride.

EBERHARDT

817.00/4953b : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, July 27, 1927—noon.

117. The Department and the American public are naturally much disturbed by continued reports of engagements between the United States marines and the forces of Sandino. The Department is also greatly embarrassed by the fact that these reports almost always appear in the newspapers prior to the receipt of any information whatever from you. To-day's press, for example, reports that our marines and the Nicaraguan constabulary just escaped being ambushed, and that one marine and several of the constabulary had been wounded. The Department appreciates the practical difficulties encountered, but it cannot fail to regard this situation with grave anxiety. As the Legation must know, the Department's information regarding actual conditions affecting the restoration of tranquility and order in Nicaragua has on many occasions been found to be grossly inaccurate and misleading. The Department, therefore, cannot impress upon you too strongly the urgency of keeping it promptly and accurately informed. The Department has been led to believe that armed opposition to the present program would speedily disappear, and that it need anticipate no serious complications on this account. If the Department must face the probability that Sandino or any other bandit can raise and keep in the field forces sufficient to cause trouble and give rise to repeated engagements with the United States marines and the Nicaraguan constabulary, like those which have recently taken place, the Department should like to have immediately by telegraph as full a report as possible from you and General Feland setting forth actual conditions and advising what the Department must expect.

KELLOGG

817.00/4950 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, July 27, 1927—3 p. m.

[Received July 28—6:15 p. m.]

180. It is reported that yesterday Major Floyd, leading 74 marines and 37 constabulary en route to disarm Sandino and restore the San Albino mine to its American owner, had a skirmish at San Fernando resulting in 4 killed of Sandino's men and a very slight flesh wound for one marine. Today two scouting aeroplanes reconnoitering road to Jicaro which Floyd expects to follow were subjected to rifle and machine-gun fire without result, about 3 miles out of San Fernando, by a group of armed men estimated to have numbered about 50 who were evidently preparing an ambush. Aeroplanes returned fire and dropped a few bombs scattering the group and counting 6 men lying on the ground supposed to have been killed or badly hurt. Floyd party tomorrow start for Jicaro where a considerable grouping is known to be, possibly including Sandino himself and where fight is expected about 29th.

EBERHARDT

817.00/4959 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, July 31, 1927—2 p. m.

[Received 9:52 p. m.]

183. Legation's 180, July 27, 3 p. m., apparently crossed the Department's 117, July 27, noon, which it answers in part. Neither I nor General Feland can prevent publication articles in the American press in advance of the receipt of our own information by the Government departments respectively interested. Immediately any activity occurs or seems imminent in any part of the country local telegraph operators submit guesses or true, false, or manufactured accounts to correspondents here at Managua who immediately send to the United States. This sometimes happens 24 to 48 hours before confirmation or disapproval is received by the General or me and we dislike to send anything from mere rumor. Frequently these men guess right. The Ocotal fight for instance was reported several hours before Feland had any news or confirmation of it. It is regretted that information that has come to the Department, whether from the Legation, Feland, or other sources, has proved at times "inaccurate and misleading". Attempt has been made always to separate rumor from facts and to so state. In these last weeks, with inadequate help in the Legation,

I had hoped that most military details would be received from Feland reports without necessity for their repetition by the Legation.

Sandino's recent display of unexpected strength seems due to his possession of coffee which he confiscated in Jinotega which he is said to be selling in Honduras and gold which he is taking from the confiscated American mine at San Albino whereby he is able to pay small amounts to [followers?] thus retaining marauders who have, during the revolution of the last year, grown to prefer this life to any peaceful pursuit. Notwithstanding the reports that he is still receiving arms and ammunition and perhaps small cash from Honduras and other countries, it is believed that his arms are diminishing and that he must soon be annihilated or leave the country as seems certain to be the fate of other marauding bands. I have always felt that he would make his final dash down the Coco River but others hold to the belief that he will cross into Honduras. There is little doubt that in the Ocotal fight he was helped by Honduraneans and many Liberals from Managua and vicinity. It is estimated that Sandino has today as a maximum 200 men roaming in bands of 20 to 30 in the territory to the east of a north and south line through Ocotal owing allegiance to him but who could now be assembled with difficulty and seem to be disintegrating. Some 50 men owing no allegiance to him are reported to the east of that line as stated in my telegram No. 182, July 28, 5 p. m.⁴⁶ Major Floyd yesterday took Jicaro, which he found entirely deserted and many signs that it had been occupied only by lawless troops for some time before they entered the town. A few shots were fired but no casualties on either side are reported. Flinn [*Floyd*] expects to move on to San Albino today or tomorrow. Aero-planes reconnoitering there yesterday report some individuals endeavoring to signal them which indicates either a ruse or that no Sandino troops are there. If San Albino is occupied and must later be left before owners take over, Floyd expects to conceal vital machinery parts to prevent mine being worked by unauthorized persons.

EBERHARDT

817.00/4961 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 1, 1927—6 p. m.

[Received 10 p. m.]

187. Reconnoitering planes report that Major Floyd party occupied San Albino today without resistance; that throughout Ocotal region individuals and groups were observed apparently returning

⁴⁶ Not printed.

to farms and villages as if normal conditions were at hand; that the considerable group seen last week at Telpaneca is reported to have been broken up and returned to vocations declaring they are tired of war; and finally that Sandino is reported to have turned all articles possible into cash and is now headed down Coco River with few men. President Diaz has just showed me a message from telegraph operator at Somoto reporting all quiet there and that Salgado, referred to in my 182 July 28, 5 p. m.,⁴⁷ advised that [*the*] telegraph operator that having learned that Sandino is finished he is disbanding his men who are returning to their homes in Las Sabanas district.

EBERHARDT

817.00/4991 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 16, 1927—4 p. m.

[Received 9:07 p. m.]

201. After a consultation between Diaz, Feland and myself endeavoring to insure tranquility, Feland signed and distributed a few days ago by aeroplane in the Ocotal region printed circulars offering amnesty from the Nicaraguan Government to all followers of Sandino in recent activities. Nothing substantial having thus far resulted and Salgado referred to in my telegram number 182, July 28, 5 p. m.,⁴⁷ now leading a band estimated at 25 permanent followers with an equal number who might join him at any moment reported as cutting telegraph lines and committing other slight depredations, Feland, Moncada and I this afternoon arranged for Moncada to be taken by aeroplane tomorrow morning to Somoto to confer with Salgado endeavoring to induce him and followers to lay aside their arms.

EBERHARDT

817.00/4998 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, August 22, 1927—3 p. m.

[Received 7:15 p. m.]

207. General Feland left today Managua expecting to sail from Corinto for the United States 24th when Colonel Gulick will assume command of Marine Corps in Nicaragua.

EBERHARDT

⁴⁷Not printed.

817.00/5014: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 2, 1927—8 p. m.

[Received September 3—12:34 p. m.]

223. Sandino or his followers have been again active this week in the region east of Telpaneca where they are reported to have been joined by some of Salgado's men. Airplanes today report seeing body of 25 or 30 armed mounted men in that district. Threatening notes purporting to be from Sandino are being received by merchants at Telpaneca who fear repetition of exactions of some 2 months ago. Two patrols of marines and constabulary have been sent to the affected district. While neither group of bandits is considered a serious military force, a clash seems not unlikely.

EBERHARDT

817.00/5015: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 3, 1927—10 a. m.

[Received 9:41 p. m.]

225. My September 2, 8 p. m. Moncada's recent trip to Ocotal for the ostensible purpose of urging Salgado to lay down his arms was a failure in this respect. Moncada did not even confer with Salgado but took advantage of his visit to that region to strengthen himself politically. He reported Salgado to be a dissipated, elderly bandit, about 60 years old, who preferred to live by banditry and would not in his opinion lay down arms in any case. This latter statement seems borne out by more recent events when the marines have attempted in various ways to induce him to lay down arms. President Diaz was induced to send \$2,000 to the American commander at Somoto from which to offer Salgado \$10 for each serviceable rifle he or his followers might surrender. While a few of his followers are reported to have laid down arms, he himself has persisted in making increasingly difficult and obnoxious demands and is plainly temporizing and making himself a hero in the eyes of the ignorant class by the manner in which they believe he is deceiving the Americans.

He has now been given 48 hours within which to lay down arms after which it is believed the marines and constabulary may send an expedition against him. It is generally believed that if such an expedition had been sent long ago against Sandino to destroy him and comparatively few followers the larger number of deaths at Ocotal might have been avoided. It is feared that a similar incident may occur with Salgado if he and his band are not destroyed.

EBERHARDT

817.00/5016 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 5, 1927—3 p. m.

[Received 11:28 p. m.]

226. On September 2d a marine-constabulary patrol from the Jicaró garrison had a short engagement near Quilali with men supposed to be followers of Sandino, so far as known without casualties on either side. The following day there was a fight between another patrol and the Salgado band near Telpaneca in which five men of the latter were seen to fall from their horses, probably killed or wounded. Patrol suffered neither killed nor wounded. This is the beginning of an active campaign against these two bandit bands.

A reward of \$5,000 may soon be offered, with minimum of publicity, to Nicaraguan troops or civilians for Sandino dead or alive.

EBERHARDT

817.00/5027 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, September 11, 1927—3 p. m.

[Received 11:50 p. m.]

237. The Government has ordered the expulsion from Nicaragua of J. Ramon Telles, one of Moncada's generals, who was chief of police of Ocotal at the time of Sandino's attack and who was suspected by the marines of foreknowledge of, if not connivance in, the attack. Two weeks ago Moncada informed me that three suspected agents of Sandino were here possibly plotting attack on himself, Diaz or myself. This led to the [belief?] that Telles was sending supplies to and conducting propaganda on behalf of Sandino. Moncada did not know that a Liberal of such importance would be implicated. Colonel Gulick considers the evidence of Telles guilt conclusive.

When originally arrested Telles violated his parole but later surrendered and is now being held by the marines until the arrival of a steamer. Although Moncada informed me that he approved the action taken if the facts were as stated, some of the Liberal newspapers are protesting, probably at Moncada's instigation.

EBERHARDT

817.00/5038 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, September 19, 1927—4 p. m.

[Received 10:25 p. m.]

249. About 140 followers of Salgado attacked garrison of 20 marines and 25 *guardia* at Telpaneca at 1 o'clock this morning. Fighting lasted until 5 a. m. when the bandits withdrew. One marine was

killed and another mortally wounded. One *guardia* was seriously wounded. Bandits are reported to have lost 20 killed and 50 wounded. They were well armed with rifles, machine guns, hand bombs, and dynamite bombs. The marines report that the new *guardia* as on other occasions put up a splendid fight.

A relief column is on the way to Telpaneca from Pueblo Nuevo as it is feared that there may be another attack tonight.

MUNRO

817.00/5051 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 4, 1927—9 a. m.

[Received 2:45 p. m.]

259. The following telegram was sent to the American Legation, Tegucigalpa:

"October 4, 9 a. m. A band of Conservative bandits led by Hernandez and Santalides are operating in western Nueva Segovia near Malpaso but are making their headquarters just across the frontier near San Marcos in Honduras. This makes it impossible for the marines to catch them. They are reported to be staying on a farm belonging to the *jefe politico* of Choluteca.

I have suggested that the Nicaraguan Government ask the Government of Honduras to have these bandits driven out of Honduran territory but I think that it would be helpful if you would also make representations because these bandits, being Conservatives, have influential friends among officials on both sides of the border.

It would also be very helpful if you could advise me fully and promptly about any action which the Honduran Government may decide to take so that the marines here can be prepared to catch the bandits if they are driven across the frontier. The above is being repeated to the Department for its information."

MUNRO

817.00/5084 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 18, 1927—3 p. m.

[Received 7:37 p. m.]

284. The situation in Nueva Segovia is still very unsatisfactory. The marines and constabulary are holding the larger towns but numerous groups of bandits roam almost at will through the country committing murders and depredations. Several particularly revolting crimes have occurred in the last few days. Sandino apparently has a force of several hundred men under arms and recent events seem to have increased his prestige. The leaders of both political parties view with alarm this situation.

The marines have hitherto not taken very active measures against the bandits partly because of tremendous difficulties of transportation during the rainy season, partly because of lack of adequate forces and partly for reasons of policy. I understand that more energetic steps are now contemplated. The rains will stop in about a month. A larger force of *guardia* is now available and Colonel Gulick has asked that more marines be sent to Nicaragua. To avoid possible criticism, the operations will be carried on largely by the *guardia* and I understand that a *guardia* officer will be placed in command of the forces in Nueva Segovia. Two strong columns of marines are now being sent in an effort to rescue the aviators mentioned my telegram of October 11, 6 p. m.,⁴⁸ of whom nothing has been heard.

Probably as a result of the situation in the north there has been a flood of rumors of revolts and violence in the last few days. Each party is accusing the other of attempting to foment disorders in order to prevent a fresh election. So far as can be ascertained however nearly all reports of disturbances are untrue or exaggerated.

MUNRO

817.00/5140 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, November 14, 1927—5 p. m.

32. The Commander of the Special Service Squadron in reporting an engagement between a force of marines and constabulary and a group of bandits commanded by a Honduran Medrado Vallegos states that the headquarters of this band are said to be in Santa Rita, Honduras, on a farm owned by Felix Pedro Pinell who protects and arms the bandits who make their raids from Santa Rita into Nicaragua. Pinell is said to be the *Jefe Politico* of Choluteca.

Please convey the above information informally to President Paz for such action as he may care to take.

KELLOGG

817.00/5141 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, November 15, 1927—4 p. m.

[Received 10:15 p. m.]

68. Your telegram No. 32, November 14, 5 p. m. President Paz informed me this morning that an investigation of reports from the region in question was ordered by him yesterday. He said that reports received by him indicated that some property had been destroyed and several Honduraneans had been killed at Santa Rita and San

⁴⁸ Not printed.

Luis in Honduras by American marines and constabulary forces and that Liberal civilians from Nicaragua had accompanied the marines.

President Paz stated that he believes that some Liberals, both Nicaraguans and Honduraneans, by deceiving the marines are endeavoring to cause trouble between Honduras and Nicaragua. Repeated to Nicaragua.

SUMMERLIN

817.00/5145 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 17, 1927.

[Received 6:15 p. m.]

336. The following telegram was sent to Tegucigalpa:

"November 17, 2 p. m. Your November 15, 4 p. m. Colonel Gulick believes that the *jefe politico* of Choluteca is actively aiding the numerous groups of Conservative bandits who are operating in western Nueva Segovia and who are committing almost as many murders and depredations as the Liberal bandits under Sandino. The Conservative bands are composed largely of Honduraneans and seem to make their headquarters in Choluteca itself. Would it be possible for you to make an independent investigation in the region of Choluteca to ascertain the facts so that appropriate action may be taken if Honduran officials are involved?

The marines and *guardia* have not knowingly crossed the Honduran frontier even in active pursuit of bandits. The tone of the reports received by President Paz strongly suggests that the persons making the reports were seeking to conceal improper activities of their own."

MUNRO

817.00/5155 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 24, 1927—9 a. m.

[Received 3:10 p. m.]

346. The aeroplanes yesterday for the first time definitely located Sandino's stronghold at Chipote. They bombed a storehouse there killing at least four bandits. Both planes were hit by bullets.

This discovery is very important as it now should be possible to make a decisive attack on Sandino as soon as adequate preparations can be made. The nature of the surrounding country makes military operations extremely difficult.

Information has been received indicating that 600 Honduraneans have joined Sandino in the last few months.

MUNRO

817.00/5204 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 26, 1927—11 a. m.

[Received 9:10 p. m.]

388. The worst elements among the bandits now operating in the north are Honduraneans and operations there are made much more difficult because many groups make their headquarters in Honduran territory and receive support from officials there. San Marcos and Las Manos are said to be bandit headquarters and reliable information confirmed by intelligence operatives indicates that Felix Pedro Pinel, *jefe politico* of Choluteca, permits bandits to use his farm at Santa Rita and gives them arms and other assistance.

Sandino also is unquestionably receiving arms and supplies from Honduran sources. In a recent engagement in which a small American patrol was routed with one marine killed the outcome was due chiefly to the presence of 25 soldiers in Honduran uniforms with good rifles and plentiful ammunition.

It would be most helpful if the Honduran Government could be induced to exercise a more effective vigilance on the frontier and to remove officials who are in sympathy with the bandits. Steps should also be taken against persons who are known to be buying animals and other property stolen in Nicaragua such as Jose Calazan Valladares at El Paraiso. Since it would be difficult to make efficient representations without more complete information would it not be possible to have the military attaché visit Honduras and conduct a discreet investigation? Such an investigation by itself would tend to discourage Honduran support of the bandits.

[Paraphrase.] According to unconfirmed reports General Chamorro is now giving aid to Sandino through Martinez Funes, the Honduran Minister of War, for the purpose of rendering it more difficult to hold a free election in 1928. Although I suspect that these reports emanate from General Moncada and his supporters, the attitude of General Chamorro towards this Legation is now frankly uncooperative, and I do not believe it impossible that he is working through some of the bandit leaders to foment disorders. [End paraphrase.]

MUNRO

817.00/5204 : Telegram

*The Secretary of State to the Minister in Honduras (Summerlin)**

WASHINGTON, December 28, 1927—7 p. m.

41. The following telegram received from Managua: [Here follows text of telegram No. 388, December 26, 11 a. m. printed *supra*.]

* The last two paragraphs of this telegram were repeated on the same date to the Legation in Nicaragua as telegram No. 288.

The War Department has been consulted with regard to Munro's suggestion, and Colonel Cruse, who is shortly proceeding to Central America as Military Attaché, will be instructed to endeavor to make an investigation at an early date.

In the meanwhile the Department desires you to bring the allegations contained in the telegram from Managua to the personal attention of President Paz and make informal but emphatic representations, impressing upon him the necessity for a more effective vigilance on the frontier and for Honduras to make every possible effort to prevent her territory being used as a base of operations by lawless elements in Nicaragua.

KELLOGG

817.00/5213 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, December 30, 1927—3 p. m.

[Received December 31—1:10 a. m.]

. 84. Department's telegram No. 41, December 28, 7 p. m. President Paz stated to me today that these reports against the Minister of War and Pedro Pinel are false but that as an evidence of good faith on the part of his Government he will transfer the latter at once to another department; that no Honduran official has assisted Sandino or any of his followers; and that he will order a more effective vigilance on the frontier. He added that he has no objection to an investigation by the military attaché. The President stated further that he believes these and similar reports are concocted and disseminated by Honduran and Nicaraguan Liberals. Repeated to Managua.

SUMMERLIN

817.00/5214 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA [undated].

[Received December 31, 1927—3:01 p. m.]

391. The following telegram was sent to the American Legation Tegucigalpa:

"December 31, 10 a. m. Your December 30, 3 p. m. You realize of course that the bandits whom Pinel has apparently been assisting are Conservatives who have been giving almost as much trouble as Sandino. The evidence against him seems strong and he has brought increased suspicion on himself by the ridiculous reports which he has furnished to his Government regarding alleged abuses by marine

patrols while dispersing Conservative bandit groups. The Honduran Minister here informs me that Pinel is an extreme Nationalist and such a man would naturally sympathize with the Nicaraguan Conservatives in the blood feud which now exists between the two parties in Nueva Segovia, especially as relations between party leaders on both sides of the border have always been very close."

MUNRO

S17.00/5214 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, December 31, 1927—7 p. m.

44. Referring to telegram December 31, 10 a. m., from Managua.⁵⁰ Department is deeply concerned over the situation in Nicaragua. All evidence received both from Munro and from American armed forces tends to prove that bandits in Nueva Segovia are receiving material assistance from Honduras. Department expects you to impress upon President Paz necessity for preventing this. Keep the Department informed by telegraph of whatever measures are taken as result of your representations.

KELLOGG

SALE OF MUNITIONS BY THE UNITED STATES TO THE GOVERNMENT OF NICARAGUA

S17.24/169

*The Acting Chief of the Division of Latin American Affairs (Morgan)
to the Secretary of State*

WASHINGTON, January 3, 1927.

DEAR MR. SECRETARY: Mr. Tillinghast, of the National Bank of Nicaragua, called Mr. Morgan on the telephone from New York to say that the National Bank had received a telegram from President Diaz asking the Bank to act as agent for the Nicaraguan Government for the purchase of one thousand Springfield rifles and five hundred thousand rounds of ammunition and fifty Browning machine guns with one hundred thousand rounds of ammunition.

Mr. Tillinghast asked Mr. Morgan whether the State Department would issue licenses for the export of this war material if it were purchased by the Bank of Nicaragua for the Nicaraguan Government.

The Department received on January 3, a note from the Nicaraguan Legation in Washington⁵¹ requesting that a license be granted for the export of one hundred airplane bombs, three thousand rifles and five hundred thousand rounds of ammunition. I believe that the

⁵⁰ See undated telegram No. 391 from the Chargé in Nicaragua, *supra*.

⁵¹ Not printed.

rifles and ammunition referred to by the Nicaraguan Government are identical with the munitions to be purchased by the Bank of Nicaragua.

STOKELEY W. MORGAN

817.24/170

Memorandum by the Acting Chief of the Division of Latin American Affairs (Morgan) of a Telephone Conversation With the Vice President of the National Bank of Nicaragua (Tillinghast), January 4, 1927

After consultation with the Secretary I telephoned Mr. Tillinghast that the Department would issue the license requested as soon as the shipment was ready to be forwarded.

I informed the Nicaraguan Minister by telephone that the Department would issue a license for the export of the airplane bombs now at New Orleans and that the Department would in future issue licenses for the export of arms and ammunition consigned to the Diaz Government when such shipments were ready to go forward.

S[TOKELEY] M[MORGAN]

817.24/148

The Nicaraguan Minister (César) to the Secretary of State

[Translation]

WASHINGTON, February 7, 1927.

MOST EXCELLENT SIR: Under the express instructions of my Government I have the honor to address you in the following sense:

After a long and unfortunate conflict for the maintenance of order and the institutions of the Republic, the Nicaraguan Government views its war materials considerably diminished, and it is therefore obliged to restore its stocks of such materials at the earliest possible moment, in order that it may be placed in a better future position to guarantee the national defense and the security of lives and property of its nationals and of foreigners. It therefore approaches your government confident that it will meet with the same disinterested spirit of friendship which it has always found, and which has come to be proverbial in the relations between Nicaragua and the United States; and which invariably has contributed to fortunate results for our country.

In view of the foregoing I take the liberty of expressing to you the desire of the Nicaraguan Government to enter into negotiations to secure war materials, completing therefor a purchase and sales

contract with the United States Government, under conditions and terms similar to those stipulated in the agreement signed in Washington the 14th of November, 1921 between Mr. Glenn E. Edgerton, Director of Sales, United States War Department, and General Emiliano Chamorro, Minister Plenipotentiary of Nicaragua in Washington.⁵² This contract contains terms and conditions of payment which the Government of Nicaragua would again be able to assume, confident that it would be able to comply therewith without default or delay, in the same manner as it did on the previous occasion, since these terms and conditions are within the economic possibilities of the country.

The terms and conditions of the transaction would be as follows:

(a) The Government of Nicaragua proposes to purchase immediately:

- 3000 Krag rifles, 1898 model.
- 500,000 cartridges for the above.
- 200 Browning machine guns, automatic rifle type.
- 3,000,000 cartridges for the above.

(b) The cost of this war material would be paid in installments in the following manner:

\$5,000 at the end of each month, the first payment to be made January 31, 1929, and the additional payments each month thereafter until the account is settled.

The Government of Nicaragua will pay 6% interest annually on the amount due.

These materials are urgently needed by the Nicaraguan Government; but I am obliged to state that for the complete reorganization of the army, which my government has in mind to carry out as soon as the general situation of the country is normalized, larger quantities and other classes of war materials will undoubtedly be required. I therefore postpone until that time the amplification of the request which my government makes in this communication.

As soon as the necessity of completing the national armament is met, through the benevolent aid of the United States Government, the Nicaraguan Government will unfailingly attain the end of assuring the most perfect conditions of peace and tranquillity within the Republic, these being the fountain of all progress and well being, and surely the people and government of Nicaragua will thereby contract a new debt of gratitude toward the people and Government of the United States.

I take [etc.]

ALEJANDRO CÉSAR

⁵² See *Foreign Relations*, 1921, vol. II, pp. 564 ff.

817.24/149

The Secretary of State to the Nicaraguan Minister (César)

WASHINGTON, February 18, 1927.

SIR: With reference to your note of February 7, concerning the desire of your Government to purchase certain arms and ammunition from the United States War Department, I have the honor to inform you that I am now advised by the appropriate authorities that the arms and ammunition listed below can be made available for sale to the Nicaraguan Government at the prices indicated:

| | |
|---|-----------|
| 3,000 Krag Rifles, M 1898 at \$6.00 each | \$18,000 |
| 200 Browning Machine Guns, M 1917 at \$302.19 | 60,438 |
| 2,000 Belts, Ammunition 250 rounds for Browning Machine Gun at \$1.81 | 3,620 |
| 3,000,000 Cartridges, Ball, Cal. .30, Grade 2 at \$45.22 per M | 135,660 |
| Total | \$217,718 |

The above prices are f. o. b. point of storage, but do not include the cost of packing and handling which will be an additional charge.

The War Department has no suitable Krag Rifle ammunition available. It is understood, however, that the following manufacturers are in a position to supply ammunition for this rifle:

Winchester Repeating Arms Company, New Haven, Conn.
 Remington Arms Company, Bridgeport, Conn.
 Peters Cartridge Company, Cincinnati, Ohio.
 Western Cartridge Company, East Alton, Ill.

It is understood that the terms of sale would provide for the payment of the full purchase price of the material delivered, with interest from the date of the contract at six per cent per annum, delivery of notes of the Government of Nicaragua to be in denominations of \$5,000 each, except the final note which shall cover the amount then due; payment of the first note of \$5,000 to be made on January 31, 1929, principal and interest, and one note on the last day of each month thereafter until the total number of notes together with interest is paid; the terms of sale hereafter to be included in a contract.

I shall be pleased to know at your convenience whether your Government desires to purchase the arms and ammunition specified above on the terms herein set forth.

Accept [etc.]

For the Secretary of State:

ROBERT E. OLDS

817.24/150

The Nicaraguan Minister (César) to the Secretary of State

[Translation]

WASHINGTON, February 19, 1927.

EXCELLENT SIR: I have the honor to refer to Your Excellency's note dated February 18, 1927, in which you so kindly stated that you had been informed by the respective officials of your Government that it would be possible to sell to the Government of Nicaragua the arms and ammunition which are listed below, together with the prices therefor:

| | |
|---|-----------------|
| 3,000 Krag rifles, M 1898 at \$6 each | \$18,000 |
| 200 Browning Machine Guns, M 1917 at \$302.19 | 60,438 |
| 2,000 Belts, Ammunition, 250 rounds for Browning Machine Gun at \$1.81 | 3,620 |
| 3,000,000 Cartridges, Ball, Cal. .30, Grade 2 at \$45.22 per M | 135,660 |
| Total | <hr/> \$217,718 |

Your Excellency mentions that these prices must be understood as f. o. b. warehouse and that they do not include the cost of packing and transportation, which would be added to the costs above shown.

It is also understood that the terms of payment will include an interest charge of 6% per annum upon the cost over the sale price of the above-mentioned materials, and to that end the Government of Nicaragua is obliged to give notes in the sum of \$5,000 each, excepting the last which will be for the amount of the balance remaining. The principal and interest on the first note shall be paid on January 31, 1929, and the other notes shall be payable on the last day of each month, in each succeeding month, until the sum total of the cost plus accrued interest has been paid. In order that the sale of the above-mentioned materials may be made formal, a contract will be signed containing the foregoing stipulations.

Acting under full instructions from my Government I may state to Your Excellency that the Nicaraguan Government accepts the terms and conditions hereinbefore mentioned; and to carry these into effect I am ready to sign, on behalf of my Government, the respective purchase contracts and the notes or other instruments acknowledging the debt, for the amounts and in the form necessary. I therefore desire to inform Your Excellency that I wait only that you inform me that the above-mentioned documents are ready, before proceeding without

further delay to sign them in the proper manner and on behalf of the Nicaraguan Government.⁵³

I have noted that the War Department does not have ammunition for the Krag rifles but that certain factories in different places in the United States would be in position to furnish this ammunition.

Assuring you [etc.]

ALEJANDRO CÉSAR

817.24/162a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, April 27, 1927—1 p. m.

77. The Nicaraguan Minister states that his Government desires to purchase from the War Department 3 thousand Enfield rifles and 3 million rounds of ammunition. Please consult with Mr. Stimson⁵⁴ and Admiral Latimer⁵⁵ and report by cable whether in your opinion it is necessary or advisable to make this sale at this time.

KELLOGG

817.24/163 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, April 28, 1927—11 a. m.

[Received 7:25 p. m.]

113. Department's telegram 77, April 27, 1 p. m. Advise against sale. Shipment could not reach here for several weeks, by which time either agreement will have been reached⁵⁶ and arms unnecessary or it may be advisable to carry out general disarmament. Too many arms already in country and expense unjustified. Mr. Stimson and Admiral Latimer concur.

EBERHARDT

ASSISTANCE BY THE DEPARTMENT OF STATE IN THE ESTABLISHMENT OF THE NICARAGUAN CLAIMS COMMISSION

417.00/261

The Chargé in Nicaragua (Dennis) to the Secretary of State

No. 302

MANAGUA, November 25, 1926.

[Received December 9.]

SIR: Referring to the third paragraph of the Department's telegram No. 120, of November 22, 6 p. m., in regard to the formation

⁵³ The contract was signed Feb. 25, 1927.

⁵⁴ Col. Henry L. Stimson, personal representative of the President of the United States.

⁵⁵ Commander of the Special Service Squadron.

⁵⁶ For terms of agreement reached, see *ante*, p. 345.

of a Mixed Claims Commission,⁵⁷ I have the honor to transmit herewith a copy of my letter of today to President Diaz together with a memorandum attached thereto of various conversations between the President and myself in regard to the Mixed Claims Commission.

As soon as the law providing for the Commission is passed by Congress, the Legation will transmit a copy thereof to the Department.
I have [etc.]

LAWRENCE DENNIS

[Enclosure]

The American Chargé (Dennis) to President Diaz

MANAGUA, November 25, 1926.

MY DEAR MR. PRESIDENT: Completing the memorandum of our conversation of November 17, transmitted to you with my letter of the 18th, I am enclosing a further memorandum embodying some of the points discussed with you in that conversation and further elaborated in subsequent conversations.

I should greatly appreciate any corrections which you may see fit to make to this memorandum, in the absence of which I shall consider the impressions I have set down as substantially accurate.

With the assurance [etc.]

LAWRENCE DENNIS

[Subenclosure]

MEMORANDUM OF CERTAIN POINTS DISCUSSED IN INFORMAL CONVERSATIONS OF NOVEMBER 17TH, 18TH, 23RD AND 24TH BETWEEN HIS EXCELLENCY PRESIDENT ADOLFO DIAZ AND THE AMERICAN CHARGÉ D'AFFAIRES, MR. LAWRENCE DENNIS

1. With regard to the settlement of the claims arising out of the revolution of 1926 in Nicaragua, President Diaz discussed with Mr. Dennis the plans contemplated by the Nicaraguan Government for the determination of these claims and their subsequent payment. President Diaz understood, naturally, that as there would be many foreign claimants, this subject would be of special interest to the American representative.

2. The President expressed the desire that these claims be settled on a fair basis for the Government and the claimants. He therefore contemplated the creation of a Special Commission for the adjudication of the claims. This Commission, he thought, should be composed of three members; one Conservative, one Liberal, and one American. It seemed highly desirable that these members, in addition to being reputable individuals, should possess special competence for this work, but they need not be attorneys at law. For the technical part of

⁵⁷ Telegram not printed; it contained the Department's approval of a plan to form a Mixed Claims Commission as previously outlined by the Legation.

the work it seemed necessary to have the services of an American, experienced in handling such matters. It also seemed desirable to give this American a special vote on the Commission in order to secure the maximum protection for the interests of the Nicaraguan Government. A foreigner, who was entirely detached from local influences and interests, would seem to offer the best guarantee of impartiality and fidelity to the interests of the Government. Two Nicaraguans, even of different parties and unquestioned honesty, might unconsciously favor reciprocally the interests of claimants to the detriment of the Government, the Liberal member favoring an excessive Conservative claim in return for a corresponding concession and vice versa.

3. Mr. Dennis expressed his concurrence in the views of the President and offered the suggestion that, inasmuch as it would prove most costly for the Government to bring down to Nicaragua a thoroughly competent American for this temporary work, lasting probably not more than a year, it might seem desirable for the Government to seek the services of the present High Commissioner, Mr. Hill,²⁸ who has had much experience with the settlement of claims in Nicaragua, and whose present employment with salary in this country would allow him to take on the extra duties of the new claims commission for a small additional compensation. Mr. Dennis thought that a suitable American Claims Commissioner would cost the Government not less than \$12,000 for a year's work, counting his traveling and other expenses, whereas Mr. Hill would probably be glad to undertake the extra work for some \$3600 for the year. Mr. Hill would also have the advantage of knowing conditions in Nicaragua better, by reason of his six years' residence here, than an American, however expert otherwise, who came to the country for the first time.

4. President Diaz stated that he felt that were a large salary or fee to be paid for the work of the American Commissioner, it would be preferable to secure another expert for this work, but that if Mr. Hill's services could be obtained at only a nominal addition to his present salary, this arrangement would be indicated.

5. With regard to the settlement of the amounts awarded by the Claims Commission the President expressed the belief that the only practicable way would be to issue bonds guaranteed by a second lien on the customs. This issue of bonds might be made on more or less the same basis as that of the First Customs bonds except that the Government might enjoy the option of purchasing bonds for amortization at market prices at any time. Such purchases of bonds could be most conveniently effected through the agency of the Government owned National Bank, which has special facilities therefor.

6. Mr. Dennis saw no objection whatever to such a plan.

²⁸ Roscoe R. Hill.

7. The President stated that the necessary legislation for the proposed Claims Commission was now under advisement by the National Congress.

417.00/263

The Chargé in Nicaragua (Dennis) to the Secretary of State

No. 310

MANAGUA, December 9, 1926.

[Received January 5, 1927.]

SIR: Referring to my Despatch No. 302, of November 25, 1926 in regard to the proposed Mixed Claims Commission, I have the honor to transmit a translation, made by the High Commissioner, Mr. Hill, of the law providing for this Commission as voted by Congress on December 1st.

I have [etc.]

LAWRENCE DENNIS

[Enclosure—Translation]

Law Enacted December 1, 1926, by the Nicaraguan Congress, Providing for the Establishment of a Claims Commission.^{58a}

THE SENATE AND HOUSE OF DEPUTIES OF THE REPUBLIC OF NICARAGUA
DECREE

ART. 1. There shall be established, with its seat in the Capital of the Republic, a Tribunal or Commission of Claims, which shall hear and decide, without further appeal, all the claims for war exactions, requisitions and war damages to property which are unpaid and pending against the State from October 25, 1925 up to the date of the reestablishment of peace.

ART. 2. The Commission of Claims shall be formed of three members: one of the Conservative Party, one of the Liberal Party and a third shall be the Commissioner for the Department of State of the United States on the High Commission. The two Nicaraguan members shall be named by the Executive.

ART. 3. The decisions of the Commission shall be made by the three members, with the obligation that each one shall indicate his respective vote. The Commission will decide all matters by a majority vote.

ART. 4. The Commission of Claims will decide all claims as arbiters.

ART. 5. The Commission shall be installed in the Capital of the Republic within fifteen days after the reestablishment of peace. Within this period it shall issue its regulations and rules of procedure. Five days after the issuance of these, the Commission will begin to function. The Claims shall be presented in the form and

^{58a} The President of Nicaragua on December 3, 1926, ordered the law to be carried out. It was published in *La Gaceta* No. 275, December 6, 1926. (417.00/265, 270.)

with the requisites required in the said regulations. Notice of the installation and copy of the regulations shall be published in the *Gaceta*.

For the purpose of this Article the official date of the reestablishment of peace shall be the date publicly and officially proclaimed by the Executive.

ART. 6. Nicaraguan citizens and juridic persons and foreign citizens and companies shall have equal rights to present themselves before the Commission. Those who do not present their claims within six months after the installation of the Commission, will not be able to do so later and will lose the right to any indemnization either judicial or extrajudicial.

ART. 7. There shall be considered as Claims against the State, the exactions, requisitions and war damages caused by both parties in the civil strife of 1926; but the benefits of this law shall not accrue to either individual foreigners or foreign companies who have taken part in the revolutions in Nicaragua, or those who belong to countries which have furnished arms to aid said revolutions.

ART. 8. Each member of the Commission shall enjoy a salary of three hundred cordovas per month.

ART. 9. The Secretary of the Commission shall be a Nicaraguan named by the Commission and shall enjoy a salary of one hundred cordovas per month. The Commission may dispose of two thousand cordovas per year for the office expense and expenses of investigation, upon which it may decide, and [all] in accordance with the dispositions of the Regulations.

ART. 10. All the members of the Commission shall remain in the Capital and not be absent during office days except for duly justifiable cause. In case that any member shall persistently absent himself without cause or for any motive should become incapacitated for the fulfillment of his duties, the remaining members shall notify the Executive who shall proceed immediately to the appointment of the person to replace the negligent or incapacitated member. The newly appointed member shall meet the requirements of Art. 2.

ART. 11. The functions of the Commission shall terminate within one year from the date of the installation. Within this period all matters presented and resolved by the Commission shall be decided and published.

ART. 12. The Executive shall provide the funds necessary to make the payments to which the State shall become obligated by the decisions of the Commission.

ART. 13. The Treasury shall be represented before the Commission by a lawyer named by the Executive to who[m] shall be given the legal notifications and hearings. This lawyer shall enjoy a salary of one hundred and fifty cordovas per month.

* ART. 14. The claims shall be presented to the Commission by the claimant or claimants personally or by a representative with power of attorney duly authorized by notary or by local civil judge, in the forms and with the requisites which the regulations of procedure of the Commission may demand. The documents on presentation and resolution shall be in [on] unstamped paper.

Given [at] the session halls of the House of the Senate.

MANAGUA, 1st December, 1926.

417.11 R 55/4

The Secretary of State to the Minister in Nicaragua (Eberhardt)

No. 228

WASHINGTON, May 14, 1927.

SIR: The Department refers to your despatch No. 372, of March 4, 1927,⁵⁹ in which you stated that pursuant to the Department's instruction No. 196, of January 27, last,⁵⁹ you suggested to the Nicaraguan foreign office that the law enacted by the Nicaraguan Legislature on December 1, 1926, providing for the creation of a Mixed Claims Commission to adjudicate claims against Nicaragua arising out of the recent revolutionary disturbances in that country be amended so that the proposed Commission will have jurisdiction over personal injury claims.

In the circumstances, the Department would be particularly gratified if the law of December 1, 1926, should be amended so that the proposed Commission would have jurisdiction over personal injury claims. Therefore, the Department desires that you follow this matter closely and energetically with a view to obtaining the desired amendment.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

417.11 R 55/8

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 429

MANAGUA, June 15, 1927.

[Received July 11.]

SIR: I have the honor to advise the Department that on receipt of its No. 228, of May 14, 1927 (File No. So 417.11 R 55/4), by a personal visit the attention of the Foreign Office was called to my Note No. 70, of March 4, 1927, a copy of which accompanied the Legation's des-

⁵⁹ Not printed.

patch No. 372, of March 4, 1927, as enclosure No. 2,⁶⁰ there having been no "further developments" in the matter since the date of the above-mentioned despatch.

The result has been a note from the Foreign Office, a copy of which, with translation, form enclosures number 1 and 2 with this despatch.⁶¹ It may be noted that assurances have been given that at the next session of Congress an amendment of the law as indicated will be proposed with what would seem to be good prospect of ultimate success of the measure.

This Legation will not fail to "follow this matter closely and energetically with a view to obtaining the desired amendment," or to keep the Department promptly and fully advised as to the progress of the case.

I have [etc.]

CHARLES C. EBERHARDT

817.00/4916 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, June 24, 1927—9 a. m.

[Received 2:48 p. m.]

157. By Presidential decree, September 4th has been set for elections in the departments and districts where elections were not held in 1926 because of revolution.⁶² This affords the prior publicity of 60 days required by law.

The Claims Commission has been formed in accordance with plan outlined in Legation's despatches 302, November 25, 1926; and 310, December 8 [9], 1926. Preliminary sessions have already been commenced, regular sessions to commence July 1st. The salary of each member is \$300 a month which Hill will receive in addition to his regular salary as High Commissioner. While President Diaz still feels that Hill should be ultimately relieved from all duty here, he does not consider it opportune to make such change now.

Sandino is reported to be committing still more audacious and vicious acts of banditry such as seems certain to result soon in an active expedition against him.

Restoration of Supreme Court is being delayed, President Diaz being specially desirous in this vital matter of first receiving through the State Department the helpful suggestions referred to in concluding paragraph of my 153, June 16, 4 p. m.⁶³

EBERHARDT

⁶⁰ Despatch No. 372 and enclosures not printed.

⁶¹ Enclosures not printed.

⁶² Decree No. 49, June 17, 1927. For text, see despatch No. 437, July 7, 1927, from the Minister in Nicaragua, p. 354.

⁶³ Ante, p. 389.

817.00/4921 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, June 28, 1927—8 p. m.

103. Department's 101 of June 27, 5 P. M., last paragraph.⁸⁴ Colonel Stimson states when he left Nicaragua the plan for the Claims Commission was that the Nicaraguan Congress when it has been constituted and called into session shall authorize the creation of a War Claims Commission consisting of an American Chairman, a Liberal and a Conservative, and that the present Commission which is sitting now shall perform merely the work of collecting the claims and the evidence, tabulating them and turning them over to this other Commission for settlement. Moncada⁸⁵ who was informed of this plan evidently still believes it is to be carried out as his representative, Señor Morales, so informed Colonel Stimson on June 28. If any change in this program has been made the Department desires to be advised and also that you be absolutely sure to obtain the agreement thereto of Moncada and the Liberals. Cable reply. Urgent.

KELLOGG

817.00/4923 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, June 30, 1927—4 p. m.

[Received July 1—1: 50 p. m.]

163. Department's 103, June 28, 8 p. m. Plans for Claims Commission as outlined are being followed. Their preliminary work has been to formulate and prepare rules of procedure, etc. Tomorrow they commence to receive and tabulate, upon completion of which (about December first) especial proceedings will be undertaken either by this Commission made permanent or by its successor, latter to be created by the law of last December as has been the present one, the law in either case to be amended to accord the American member of the Commission the veto power in the appointment of the Liberal member. Moncada was not consulted directly since he was absent from Managua, as he has been most of the time and is today; instead, I saw the Liberal Directorate through Dr. Aguado to confer with Conservative Directorate to make recommendations on this and other subjects. They seemed divided amongst themselves and did nothing. Meantime Diaz was besieged daily by scores of persons who had claims. It was

⁸⁴ Ante, p. 400.⁸⁵ Gen. José María Moncada, formerly Minister of War and Marine in the Sacasa regime at Puerto Cabezas and commander of the Liberal forces.

physically impossible for him to see them and a Commission was urgently necessary. Somoso, former secretary of Moncada and now acting *jefe politico* at Leon, finally joined some 50 other prominent Liberals of that vicinity in recommending Arguello Cervantes for the position and I suggested that Diaz appoint him. There are a number of Liberals whom either Diaz or I would have chosen instead of Cervantes but Diaz was ready to name any man of their choice. This affair seems thus to be a development of the apparent split between the Leon and other Liberals. It is earnestly hoped that no change will be considered now. At the close of the preliminary work, about December, will be ample time. If a change seems desirable, I am sure that I can arrange this matter satisfactorily with Moncada if and when he next comes to Managua.

EBERHARDT

417.00/276 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, October 25, 1927—9 a. m.

[Received 1:05 p. m.]

291. My despatch number 482, September 22.⁶⁶ After further investigation I consider it very improbable that the Liberals would accept Arguello Cervantes as their member of the Claims Commission, as Moncada and his chief supporters resent the fact that his appointment was made without consulting them. They assert that they do not feel that the Commission as now constituted would assure fair treatment to Liberal claimants. I think therefore that it would be well to settle the future status of the Claims Commission as soon as possible and that the first step should be to suggest that the President appoint now a man nominated by the official representatives of the Liberal Party. I hope that I may soon receive the Department's instructions in this matter.

MUNRO

417.00/276 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, October 23, 1927—6 p. m.

168. Legation's telegram number 291, October 25, 9 a. m. Moncada, with whom the matter was discussed, definitely objects to Arguello Cervantes.

With regard to the veto power of American member, Moncada firmly maintains that this should be carried out. He much preferred

⁶⁶ Not printed.

to have three American members on Claims Commission and that the Conservative and Liberal Parties be represented merely by attorneys. It was pointed out to him that such a procedure would be a considerable departure from the method adopted in the past in similar cases. He replied that he would not insist on that but must insist on American member having the decision, as the political members of the Commission would be swayed by political and family interests and would support claims higher than was justified. . . . The Liberal Party, he said, desires the Claims Commission to perform its duties in the most proper manner, that only legitimate claims be allowed, and those only in proper amounts. In view of this, Moncada would rather have a Claims Commission composed of three American members, but if such an arrangement is impossible he would accept a Conservative member and a Liberal member, provided the American chairman would have the deciding vote.

The Department concurs in your opinion that the matter of the veto power should not be pressed if it can be avoided. It wishes your views in the light of Moncada's position.

Moncada was informed that the matter of the veto power would be held in abeyance pending further consideration, but that you would be authorized to suggest to Diaz that a Liberal member named by the Liberal Party be substituted for Arguello Cervantes.

OLDS

417.00/279 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 2, 1927—1 p. m.

[Received 8 p. m.]

313. The President will appoint Doctor Enoc Aguado as the Liberal member of the Claims Commission. I consider this an excellent selection. The choice was made from a list of three names presented by Doctor Carlos Morales.⁸⁷

I think that a measure giving the American member of the Claims Commission the veto power could be pushed through Congress but I still feel that such a measure would be politically inexpedient and that it would be unnecessary in view of the high character of the Nicaraguan member[s] of the Commission. The Nicaraguan members would of course take much more interest in the Commission's work if they had a real voice in its decisions.

MUNRO

⁸⁷ Personal representative of General Moncada.

417.00/280 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 8, 1927—2 p. m.

[Received 3:50 p. m.]

323. Aguado took office on the Claims Commission yesterday.

MUNRO

417.00/280 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 10, 1927—6 p. m.

186. Your 313, November 2, 1 p. m. and 323, November 8, 2 p. m. In view of appointment of Aguado, Department agrees with you that it is not necessary to give the American member of the Claims Commission veto power.

KELLOGG

417.00/282 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 12, 1927—11 a. m.

[Received 1:30 p. m.]

330. The President on November 10th issued a decree calling on all creditors to file with the Claims Commission all claims of whatever nature against the Nicaraguan Government up to June 30, 1927.

MUNRO

417.00/282 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 17, 1927—7 p. m.

197. Your 330, November 12, 11 a. m. Inquire whether President's decree of November 10 is intended to embrace only claims against Nicaraguan Government accruing from October 25, 1925 to June 30 last. Reply by telegraph.

KELLOGG

417.00/283 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, November 18, 1927—noon.

[Received 5:52 p. m.]

337. Department's November 17, 7 p. m. Although the decree does not so state, Hill says that it is simply an amplification of the

1926 law creating the Claims Commission and therefore embraces only claims against the Nicaraguan Government accruing from October 25, 1925 to June 30, 1926 [1927]. He adds that provision could be made for any other claims in the law extending the power of the Claims Commission, to be brought up at the next session of Congress if it is considered advisable.

MUNRO

417.00/282 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, November 30, 1927—noon.

210. Your 330, November 12, 11 a. m. Ascertain whether Claims Commission will pass on the claim of Charles Butters for any damages which may have been caused to the San Albino Mine by bandits in Nueva Segovia subsequent to June 30 last.⁸⁸ Report by telegraph.

KELLOGG

417.00/285 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, December 1, 1927—11 a. m.

[Received 1:37 p. m.]

355. Department's November 30, noon. The Claims Commission will be able to pass on claims for losses suffered after June 30, 1927, only after the passage of new legislation which will be recommended to the Nicaraguan Congress when it meets.

MUNRO

**PROPOSAL BY PRESIDENT DIAZ FOR A TREATY OF ALLIANCE
BETWEEN THE UNITED STATES AND NICARAGUA**

711.1711/6

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 359

MANAGUA, February 23, 1927.

[Received March 14.]

SIR: In compliance with the Department's telegram No. 44, of February 21, 7 p. m.⁸⁹ I have the honor to transmit herewith the full text of two notes, with translations, from President Diaz in which there has been proposed a treaty of alliance, defensive and offensive between the United States and Nicaragua.

I have [etc.]

CHARLES C. EBERHARDT

⁸⁸ See telegram No. 161, June 30, 1927, 2 p. m., from the Minister in Nicaragua, p. 439.

⁸⁹ Not printed.

[Enclosure I—Translation ⁷⁰]*The Nicaraguan Minister for Foreign Affairs (Cuadra Pasos) to the American Minister (Eberhardt)*⁷¹

No. 4

MANAGUA, February 19, 1927.

EXCELLENCY: Many are the misfortunes which Nicaragua has suffered during the past year and the months of the present year which have transpired, and great is the experience acquired by its people through these misfortunes whereby they are enabled to appreciate and determine the future of the Republic. A series of lamentable circumstances, of which it has been the lot of Your Excellency to be a witness, have placed my country in the gravest peril recorded in its history, menacing its sovereignty, independence and every institution which supported its social and political structure. In former times the quarrels of the parties, in which public opinion is profoundly divided, often have been the source of great misfortunes; but although Nicaraguan differences have been manifested in more or less intense civil war, peace has always returned without the very bonds of the Republic being strained to the peril of its very existence as an independent and Christian nation.

In these sad days one of those unjustified conflicts has furnished the occasion for the Government of Mexico to display before the world its tendencies to intervene in this country. . . .

From the consideration of these facts there has been imposed on my Government the necessity of giving attention in a substantial and immediate manner to the safeguarding of our independence by seeking a customary way in the international world, whereby weak republics guarantee their own existence through friendship and alliance with the strong. It is undeniable that the Great Republic, which Your Excellency so worthily represents, was constituted in this hemisphere from the beginning of its independence to be the natural safeguard of the smaller countries which are beginning to develop their resources amid the accidents and dangers to which their weakness and the process of their development in the presence of other nations expose them.

Holding this thesis, the policy of my Government, in so far as its foreign relations are concerned, is based on the greatest confidence in the Government of the United States, and on the desire to strengthen more and more its relations with it, so as to strengthen our independence, safeguard our sovereignty, and make stable our institutions, and, at the same time, augment the economic resources, put our admin-

⁷⁰ File translation revised.⁷¹ The substance of this note had been transmitted to the Department in Legation's telegram No. 49, Feb. 20, 1927; not printed.

istration in order, consolidate the public liberties, and banish the use of civil war as a means of settling differences of opinion of Nicaraguans in purely political matters.

Inspired by these considerations, His Excellency President Adolfo Diaz has instructed me to manifest to Your Excellency the desire that you make known to the Department of State the desirability for Nicaragua of concluding with the United States a treaty of intimate alliance, which would strengthen the bonds between both countries and which might give to the smaller the advantages of tranquilizing its existence in order that it might enter resolutely upon the road to positive progress.

The geographic position of Nicaragua, with the possibilities of constructing through its territory a new interoceanic canal, makes it favorable for the investment of capital and the activity of Americans, and links it very closely with the destiny of the United States, which already has interests here, created by the Chamorro-Bryan Convention of 1914.⁷² My Government appreciates that it would be most desirable to establish *de jure* what time and history have created *de facto* between our two countries. Moreover, this appreciation of the matter in the form of an alliance has an antecedent most worthy of being taken into account. On December 1, 1884, General Joaquín Zavala, ex-President of the Republic, a Plenipotentiary of Nicaragua, and Mr. Frederick T. Frelinghuysen, Secretary of State of the United States of America, concluded a canal treaty,⁷³ article II of which reads textually: "There shall be a perpetual alliance between the United States of America and the Republic of Nicaragua, and the former agree to protect the integrity of the territory of the latter."

To my Government it appears that if an article were established as the backbone of the treaty expressly and formally guaranteeing the sovereignty, independence and integrity of Nicaragua it would be very useful to take advantage of the opportunity afforded by this same treaty to establish other points in which we would be afforded the means of obtaining resources for stabilizing our economic situation disturbed by the present crisis and of commencing a progressive movement of administration. We should also be able to take advantage of the same occasion to the end that peace might be bound up in this operation with the exercise of a Government of order, founded on the will of the people, in order that it may occupy itself with the maintenance and promotion of its great interests.

With the express instructions of His Excellency, President Diaz, I beg Your Excellency to present to the Department of State the project which has been set forth in the body of this note, in order

⁷² *Foreign Relations*, 1916, p. 849.

⁷³ The treaty was never perfected; it was withdrawn from the Senate Mar. 18, 1885. The English text is printed in S. Doc. No. 291, 55th Cong., 2d sess., p. 4.

that, if the Department should think it opportune, we might commence the discussion of the details, the manner and the form of realizing it as soon as is demanded by the painful circumstances of the grave crisis through which Nicaragua is passing.

I avail myself [etc.]

CARLOS CUADRA PASOS

[Enclosure 2—Translation ⁷⁴]

*The Nicaraguan Minister for Foreign Affairs (Cuadra Pasos) to the American Minister (Eberhardt)*⁷⁵

No. 5

MANAGUA, February 23, 1927.

EXCELLENCY: For the better study of the proposal which my Government made to the Department of State in note No. 4 which on the 19th instant I had the honor to address to Your Excellency, His Excellency President Adolfo Diaz has instructed me to put in concrete form the essential points which might be included in the treaty proposed in that note.

It is the desire of my Government to conclude with the Government of the United States a treaty of alliance, defensive and offensive, for the safeguarding of the common interests of both peoples and for the enhancement of the friendship which happily has always existed between Nicaragua and the Great Republic of the north.

The principal object of the said treaty will be the guarantee by the United States, as the greatest power of the continent, of the sovereignty and independence of Nicaragua.

The United States and Nicaragua will also guarantee, within the limits of their respective means, the rights created by the Chamorro-Bryan treaty, by virtue of which there was ceded to the United States the preferential option to construct an interoceanic canal through our territory and to install and use the naval bases mentioned in the said treaty. In return, Nicaragua would grant for a period of ninety-nine years, renewable for ninety-nine years more, all necessary powers to the United States to take measures and carry out plans with a view to assuring the efficacy of the reciprocal guarantees to both countries, which derive from the proposed treaty.

It is unquestionable that public order in administration and tranquility in the national existence of Nicaragua, both of which spring from a wise and impartial internal policy would be of urgent necessity for facilitating the work of the United States in guaranteeing our independence, seeing that, as a general rule, during the internal disorders there arise fatal occasions when the acts of other governments

⁷⁴ File translation revised.

⁷⁵ The views set forth in this note had previously been communicated orally to Mr. Eberhardt and transmitted to the Department in his telegram No. 49, Feb. 20, 1927; not printed.

may endanger our own sovereignty. In view of this, Nicaragua, under the treaty, would empower the United States to intervene in order that there be maintained a constitutional government adequate for the protection of life, property and individual liberty which would have its origin in a vote of the people in a free election and to carry out faithfully all the obligations of our country which may derive from the new treaty and from the Chamorro-Bryan treaty, in so far as it refers to the opening of the canal and to the naval bases in which the United States is interested.

It is likewise necessary to insure an uninterrupted predominance of a wise economic policy as a source of prosperity. My Government considers that out of the understandings on this occasion it could find means conducive to this end, and, consequently, would pledge itself in the treaty, by virtue of the obligation of the United States to guarantee our sovereignty, independence and territorial integrity, not to contract any financial obligation while the treaty is in force without the consent of the Government of the United States. Neither would it make any concession of its territory by sale or lease to any other power, nor consent to the creation of jurisdictions over its territory by any other government, nor would it perform any act which would tend to impair our own independence.

These substantial bases of the treaty having been established, on which would safely rest the independence of Nicaragua, my Government would desire to take advantage of the circumstances of these close relations with the United States for the purpose of deriving therefrom the advancement of our interests and the progress of the Republic. This could be facilitated by agreeing to annex, in the form of conventions, three statutory plans to the treaty under discussion. These plans would be: financial plan, plan of security and national tranquillity, and sanitary plan.

FINANCIAL PLAN

For the purpose of developing the economic interests of Nicaragua and of obtaining the positive welfare of its people, and at the same time for opening up a field for the activities of American interests and those of other foreigners who might desire to reside in Nicaragua, a convention would be concluded with the United States on the following bases:

Nicaragua would make a credit operation for the reorganization of its finances and for public works of positive progress. For this operation it would accept the advice of American experts who would be appointed by the President of Nicaragua on the recommendation of the President of the United States. Efforts would be made to obtain

a loan of \$20,000,000, which would be used more or less in the following manner:

- \$7,000,000.00 for the refunding of the internal and external debts;
- \$4,000,000.00 to relieve the deficit caused by the debts and claims resulting from the recent revolution. These claims would be determined and appraised by a Mixed Commission in agreement with the Financial Adviser;
- \$9,000,000.00 for the construction of the railway to the Atlantic and the founding of a loan bank, and for works of positive utility, among which we should enumerate the improving of our Army by the system mentioned later on.

In order to be able to obtain such a loan under reasonable and easy conditions and to be able to facilitate the work of the rapid recovery of our prosperity, the Government of Nicaragua, in this convention, would engage itself:

1. To appoint an American Financial Adviser, recommended by the President of the United States. The Government of Nicaragua in the matter of finances would follow the suggestions of this Adviser, likewise in matters of the budget and in all appropriations which might have to be made in the different branches of the public administration.

2. Adopting the same system under which the present Collector General of Customs functions, the Government of Nicaragua would appoint a Receiver General of all the revenues of the Republic.

3. The Government would enact all necessary measures for the expeditious functioning of the Adviser and the Receiver.

4. The Government would accept all recommendations of the Financial Adviser for the improvement of methods of collection and disbursement of the funds of the State and for the creation, in case of need, of new taxes.

5. The sums collected would be applied by the Receiver in the following order: Payment of the costs of this service of collection, service of the debt, maintenance of the Army and the current expenses of the Government. Moreover, the Republic would not modify its customs duties without the approval of the Financial Adviser.

6. It would be understood that the costs of administration and supervision in no case should exceed 5% of the revenues of the Republic.

The Convention could be for 30 years, probably the period for the cancellation of the debt created by the loan. This period would be specified in agreement with the Bankers, similarly its renewal in case new operations of credit should be undertaken.

It is clear that the object of this Convention would be the improvement of our situation through a loan, the realization of which would be the determining motive of the convention.

PLAN FOR NATIONAL SECURITY AND TRANQUILITY

For the maintenance of order in the Republic and for the realization of constitutional guarantees in the exercise of our democracy, it is necessary that the Government be sustained by an army well disciplined and composed of soldiers trained in the idea of the strict fulfillment of duty. With a view to obtaining the establishment of an institution adequate to this end, the Government would create a *Guardia Nacional*, organized and disciplined by a corps of officers of the United States Army. To this end a convention annexed to the treaty would stipulate that the Government of Nicaragua would agree to give the supreme command of this *Guardia Nacional* to the officers of a military mission who might be recommended by the President of the United States. The *guardia* would have the supervision of all the arms of the Republic and would constitute its only armed force. When the training should have borne its fruits, the American officers would be substituted in the supreme command by Nicaraguan officers duly trained. The duration of this convention, considering the time for the possible formation of the first Army, would be for ten years, to be renewed for another ten years, if necessary.

SANITARY PLAN

To progress, we must promote the public health, in order to have a healthy race capable of every activity and at the same time to be able to offer a safe and favorable field to useful immigration for the growth and development of the Republic. This would be done in a convention annexed to the treaty, the articles of which would be recommended by technical experts. The Government of Nicaragua would agree to entrust the direction of the work of sanitation to American engineers named by the President of the United States.

The points treated in this note are supported by the considerations set forth in my note No. 4 to Your Excellency. I beg you to consider this note as an annex to that document.

I avail myself [etc.]

CARLOS CUADRA PASOS

711.1711/1: Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 25, 1927—noon.

[Received 7:05 p. m.]

55. Full text of two notes proposing treaty went forward by today's mail. A résumé of the proposal appears in Diaz's press declaration today. Diaz laid these proposals before the Nicaraguan Congress

today where they instantly met with approval as they have already from leading Conservatives.

Many prominent Liberals who have discussed the proposed treaty with me frankly favor the idea, providing their party interests are safeguarded. They intimate that, while there may be much criticism by Liberal leaders out of the country exploiting anti-American sentiment and playing to the Latin American gallery, such criticism will not reflect the inner feeling of the Liberal party in Nicaragua as a whole, who after all want peace with guarantees. While they might as a matter of pecuniary [*sic*] pride not wish to associate themselves openly with such a plan fostered by the Conservative Party they will view its realization with satisfaction if as it now appears further revolutions will prove futile. A small delegation of the most prominent Liberal leaders is expected to go to Matiguas soon with safe conduct but unaccompanied by Conservatives to confer with Moncada ⁷⁶ there and persuade him to enter into an arrangement with Diaz or abandon the revolution and allow Diaz to work out a solution. These Liberals desire to have the purpose of the contemplated mission kept from the general public for the time being.

The wording of the communication proposing the treaty with respect to an American military mission for the organization of the national guard has led the commanding officer of the Marine guard to express dissatisfaction and the desire that the marines be considered for the work. Diaz states that in his request he did not have in view any particular corps and that Army or Marine Corps officers would be equally acceptable for the mission. He feels very strongly however that in view of Latin American and Nicaraguan susceptibilities he should while proposing all the provisions and guarantees of the Platt amendment ⁷⁷ not ask for a Legation guard or a Marine occupation force or anything that would appear to create a situation exactly similar to that in Haiti. He believes that with a treaty guaranteeing an adequate government and the assurance of American intervention in case of need therefor, the problem of public order can be solved by an American military mission in full charge of the national guard and without the presence in the country of a Marine Corps detachment. He thinks the mission would provide effective American control of the armed Nicaraguan forces and would be more agreeable to Nicaraguan pride and the critics of intervention to accomplish the objects in view by means of a military mission like those aiding Brazil,

⁷⁶ Gen. José María Moncada, Minister of War and Marine in the Sacasa regime at Puerto Cabezas and commander of the Liberal forces.

⁷⁷ See treaty between the United States and Cuba, signed May 22, 1903, *Foreign Relations*, 1904, p. 243.

Chile, Salvador and other Latin American Republics than to achieve the same results through officers connected with a Marine Corps detachment more or less permanently in the country and not having the status of a military mission.

Eberhardt

711.1711/2 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, February 26, 1927—9 a. m.

[Received 12:55 p. m.]

56. My 55, February 25, noon. Congress yesterday by vote of 45 to 10, Conservative members being unanimous, gave President Diaz a vote of confidence on his proposed treaty policy. In spirited debate Liberal members opposed treaty, largely as of form. They were overwhelmed by the arguments of Cuadra Pasos, Government leader, whose remarks repeatedly met with storms of applause from the Assembly and the crowds outside. One of the strongest and most popular arguments in favor of the treaty was that Nicaragua needed such a treaty with the United States to save itself from Mexico. Reference was also made to the representations of foreign consuls in Managua⁷⁸ and particularly to the arrival of the British war vessel to protect British subjects.⁷⁹

There is apparently great enthusiasm for the treaty among all people who are, irrespective of party, heartily tired of war.

Eberhardt

711.1711/1 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, February 26, 1927—4 p. m.

47. Legation's telegram number 55 dated February 25, noon. You should exercise every precaution not to encourage the Government of Nicaragua or the members of either political party in the belief that there is any likelihood that a treaty of that description will be acceptable to the Government of the United States. Even if the Department of State favored such a treaty, and no assurance can be given on this point, it is extremely doubtful if the Senate would give

⁷⁸ See telegram No. 5, Jan. 4, from the Minister in Nicaragua, p. 286.

⁷⁹ See note No. 141, Feb. 23, from the British Ambassador, p. 314.

its consent to ratification. According to the understanding of the Department, President Diaz originated the idea of this treaty and submitted it to you on his own initiative. Should the Department find it necessary to decline to commence negotiations with a view to signing a treaty such as President Diaz appears to have in mind, it desires to avoid any possible charges in the future that President Diaz was misled or deceived regarding its views.

GREW

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 322 ff.)

NORWAY

STATEMENT BY NORWAY OF ITS PARAMOUNT INTEREST IN THE ISLAND OF JAN MAYEN IN THE ARCTIC OCEAN¹

857.014/36

The Secretary of State to the Minister in Norway (Swenson)

No. 331

WASHINGTON, February 16, 1927.

SIR: With further reference to the Department's instruction No. 297, dated August 25, 1926,² and the Legation's reply No. 870, dated October 1, 1926,³ regarding the Island of Jan Mayen, there is transmitted herewith for your information a copy of a letter dated September 8, 1926, from Mr. Hagbard Ekerold.⁴

It is stated that the Polarfront Company, of which Mr. Ekerold is President, has established two fox farms on unoccupied land, on the Island of Jan Mayen upon which Mr. Ekerold in 1922 had placed claim stakes in his name, and that this property is outside of the section previously claimed by Mr. Ekerold on behalf of the Norwegian Meteorological Institute. It is further stated that permanent structures have been erected on both farms, that employees have been sent there in charge of the work and supplied with provisions for two years, and that Mr. Ekerold has instructed his men to raise the American flag over each station. He also states that his representatives on the Island have been ordered by certain Norwegians connected with the operation of the radio station not to fly the American flag, and that they have made other representations in regard to the matter.

In the Legation's despatch No. 870 of October 1, 1926, the Norwegian Foreign Office, in referring to the note of the Norwegian Minister at this capital, dated May 17, 1926,⁵ forwarding the notice of the Norwegian Meteorological Institute that it had extended its occupation to the entire Island of Jan Mayen, stated that there had been no occupation of the Island on the part of the Norwegian state, but that the recent activities of the Meteorological Institute had greatly increased Norwegian interests.

¹ Continued from *Foreign Relations*, 1926, vol. II, pp. 824-827.

² *Ibid.*, p. 826.

³ *Ibid.*, p. 827.

⁴ Not printed.

⁵ *Foreign Relations*, 1926, vol. II, p. 825.

The Polarfront Company contends that the Island has heretofore been acknowledged as "terra nullius," that its occupation of a portion of the land is as valid an acquisition of property rights as those claimed by or on behalf of the Norwegian Meteorological Institute, and it is desirous of securing recognition and protection of its property rights. Mr. Ekerold has made inquiry of the Department relative to the advisability of his sending a formal notice of annexation, in connection with which he desires to know whether he can be assured of the support of this Government in taking such action.

It is the opinion of this Department that the interests of the United States are not of such a nature as to permit the consideration of annexation. But the Department is also of the opinion that there is no paramount Norwegian interest which would justify an annexation to the exclusion of the recognition and protection of existing property rights of American nationals on the Island.

There is enclosed for your information a copy of the communication addressed to Mr. Ekerold in reply to his inquiry.⁵

It is desired that you should inform the Norwegian Foreign Office that the Polarfront Company, an American corporation, has established two fox farms upon the Island of Jan Mayen and makes claim to the land occupied. You should also bring the substance of the foregoing informally to the attention of the Norwegian Foreign Office and inform this Department by mail of the result of your action.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

857.014/40

The Minister in Norway (Swenson) to the Secretary of State

No. 987

OSLO, May 3, 1927.

[Received May 17.]

SIR: In reply to the Department's instruction No. 331 of February 16, 1927, with regard to the Polarfront Company's claim on the Island of Mayen, I have the honor to enclose a translation of a note dated April 30, 1927, from the Norwegian Foreign Office in which it is denied that Mr. Ekerold occupied land in his own name in 1922. The note also states that the Polarfront Company's fox farms lie partly on land belonging to the Meteorological Institute.

I have [etc.]

LAURITS SWENSON

⁵ Enclosure not printed.

[Enclosure—Translation]

*The Norwegian Minister for Foreign Affairs (Lykke) to the
American Minister (Swenson)*

OSLO, April 30, 1927.

MR. MINISTER: With reference to my last note of the seventh ultimo regarding two of the fox farms established by the Polarfront Company on the Island of Jan Mayen, I have the honor to advise that the Norwegian Meteorological Institute asserts that when the Institute, as was stated in a note dated May 17, 1926, from the Norwegian Minister at Washington to the Department of State,⁶ extended its occupation to include the whole of the Island of Jan Mayen, Mr. Ekerold was engaged in no other occupation on the Island than that which he undertook on behalf of the Institute and which is dealt with in the note dated April 21, 1922, from the Norwegian Minister at Washington to the Department of State.⁷

As to the statement made in your note of the third ultimo to the effect that the fox farms in question lie outside of the area which Mr. Ekerold at the time claimed on behalf of the Institute, I must not fail to say that it is evident from investigations which I have had made that the fox farms lie partly outside and partly within that portion of Jan Mayen which, as stated in the above-mentioned note of April 21, 1922, was previously occupied by the Institute.

With regard to the statement in your note that the fox farms in question are situated in areas where Mr. Ekerold manifestly placed claim stakes in his own name in 1922, I must advise that according to the results of the investigation conducted no such claim stakes have been seen, known, or previously mentioned.

In concluding I have the honor to add that there has come to the Foreign Office no announcement from Mr. Ekerold of occupation in his own name of any part of Jan Mayen and, as far as is known by the Foreign Office, Mr. Ekerold has done nothing to assert title to such alleged occupation.

I beg [etc.]

IVAR LYKKE

857.014/41

The Minister in Norway (Swenson) to the Secretary of State

No. 1015

OSLO, June 18, 1927.

[Received July 6.]

SIR: With reference to my despatch No. 708, of December 7, 1925,⁸ regarding the alleged rights of Mr. Christopher Evensen Ruud on

⁶ *Foreign Relations*, 1926, vol. II, p. 825.

⁷ *Ibid.*, 1923, vol. II, p. 682.

⁸ Not printed.

the Island of Jan Mayen, I have the honor to report that the Storting has just passed a bill appropriating the sum of ten thousand kroner to Mr. Ruud as an equitable settlement in connection with his occupation of the Island in 1917. The appropriation is conditional on Mr. Ruud and his creditors assigning whatever rights they may have on Jan Mayen to the Norwegian Government, and the Department of Finance is authorized to negotiate with the interested parties and to make payment upon reaching an agreement.

I have [etc.]

LAURITS S. SWENSON

857.014/43

The Minister in Norway (Swenson) to the Secretary of State

No. 1043

OSLO, August 26, 1927.

[Received September 7.]

SIR: Adverting to the Department's instruction No. 353, of May 10, 1927,⁹ with regard to the claim of the Polarfront Company to certain land on the Island of Jan Mayen, I have the honor to transmit herewith a self-explanatory note dated the twenty-third instant from the Norwegian Foreign Office in which the Norwegian Government reiterates its opinion that the Polarfront Company has no valid claim.

I have [etc.]

LAURITS S. SWENSON

[Enclosure—Translation]

The Norwegian Minister for Foreign Affairs (Lykke) to the American Minister (Swenson)

OSLO, August 23, 1927.

MR. MINISTER: In your note of June 3, 1927, concerning the claim made by the American company "Polarfront Company" to occupy a part of the Island of Jan Mayen, you stated that the area claimed by the company in question and which is alleged to have been found unoccupied on July 26, 1926, included that part of Jan Mayen which lies north and east of a direct line drawn from the northern part of North Lagoon on the northwest coast of the Island to President Rock on the southeast coast of the Island.

In this connection I have the honor again to point out what I previously stated in my notes of March 7, 1927,¹⁰ and April 30, 1927,¹¹ that the Norwegian Meteorological Institute has extended its occupation to cover the whole Island of Jan Mayen and that notification thereof had been given the United States Government in a note from the Norwegian Legation in Washington dated May 17, 1926.¹¹

⁹ Not printed.

¹⁰ *Ante*, p. 481.

¹¹ *Foreign Relations*, 1926, vol. II, p. 825.

It is therefore incorrect when the Polarfront Company declared that it found the territory to which it lays claim unoccupied on July 26, 1926. The Norwegian Meteorological Institute's occupation of the whole Island was given visible manifestation among other things by the fact that the Institute placed annexation placards among other places by a house lying on the northern part of Jan Mayen—that area to which the Polarfront Company now lays claim. From the investigations which I have had made it appears that the Polarfront Company's expedition before arriving at North Lagoon landed on the northern part of Jan Mayen, had been in the house in question, and must have seen the annexation placard.

As regards the claim stakes which Mr. Ekerold, President of the Polarfront Company, alleges to have brought to the Island in 1922 when he undertook occupation on behalf of the Norwegian Meteorological Institute, I must reiterate that no such claim stakes have been seen or known and nothing has been previously mentioned about them.

With regard to the boundary of the territory which the Polarfront Company claims to have occupied, I must advise that I have had new investigations made in the matter. From these it appears that the house and fox farm established by the Polarfront Company lie about due west from the northern shore of North Lagoon, while about 100 meters northeast of the house stands the placard put up by Mr. Ekerold, which designates the northern boundary of the territory occupied by him on behalf of the Norwegian Meteorological Institute. The placard is of considerable size and stands on a mound, so it is quite visible from the newly erected house. It has been ascertained that the sign has not been moved by any who have served Jan Mayen station after Mr. Ekerold. It must therefore be considered proved that the Polarfront Company's establishment lies within the area which Mr. Ekerold occupied in 1922 on behalf of the Norwegian Meteorological Institute.

The steps taken by the Polarfront Company to occupy Jan Mayen thus indicate a violation of that right acquired by the Norwegian Meteorological Institute, which as the rightful occupant of the Island is justified in taking the measures to maintain its rights.

I beg [etc.]

IVAR LYKKE

PANAMA

PROPOSALS BY PANAMA TO MODIFY THE UNPERFECTED TREATY BETWEEN THE UNITED STATES AND PANAMA, SIGNED JULY 28, 1926¹

819.154/236

The Panaman Legation to the Department of State

[Translation]

The National Government has reached the conclusion that for the needs of the country construction of the highways north of Alhajuela should be of a more economical type of roads than that stipulated in Article II of the treaty.² To that end it makes the following proposal: In order to clarify Article II: Within ninety days following the exchange of ratifications of the treaty the Government of the United States will deposit to the order of the Government of Panama the sum of \$1,250,000 mentioned in the said Article, the latter undertaking on its own account the construction of the said roads with the maximum breadth of fifteen feet and it remains with the National Government to choose the type of roads most suitable for each section of the work. To obtain the amount necessary to complete the amount of the cost of the said roads the Government of the United States will lend to Panama the necessary cooperation and assistance.

[WASHINGTON,] *January 6, 1927.*

819.154/236a : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, *January 19, 1927—1 p. m.*

3. The Panaman Government appears to be dissatisfied with the assurance that the United States Government will undertake, as soon as possible after the ratification of the treaty by both parties, the construction of the road from Colon to Puerto Bello or from Colon to Alhajuela, whichever the Government of Panama may prefer, expending thereon the sum of \$1,250,000., and that from the point thus reached the United States Government will continue the construction of the road as soon as funds are deposited by the Republic of Panama

¹ For previous correspondence, see *Foreign Relations*, 1926, vol. II, pp. 828 ff.

² *Ibid.*, pp. 833, 834.

to the credit of the Panama Canal, using these funds as they accrue until the road program is completed.

The Panaman Government considers this to be an advance of funds by the Panaman Government rather than a reimbursement of expenditure. Article II of the treaty provided that provisions shall be made for reimbursement by Panama for all costs of construction over \$1,250,000. and that when such provision is made the United States will enter on the construction of the highways. Panama has never been willing to indicate what provision she was prepared to make for this reimbursement but has stated that the Panaman Government cannot see its way to raise the amount which will probably be necessary to pay Panama's share of the road construction. The proposal of the United States Government, described above, was intended to assist Panama by providing for the immediate construction of a part of the road which it was hoped would enable Panama to obtain the trans-Isthmian highway at an early date with only a moderate amount of expense to Panama. Of course the Panama Canal cannot advance funds for the completion of this road until (1) provision has been made for reimbursement, and this must be arranged by the Government of Panama, or (2) funds are advanced to cover the outlay made by the Panama Canal.

The Panaman Government has now proposed to the United States that the following arrangement be agreed upon:

"Within ninety days following the exchange of ratifications of the treaty the Government of the United States will deposit to the order of the Government of Panama the sum of \$1,250,000., the latter undertaking on its own account the construction of the said roads with the maximum breadth of fifteen feet and it remains with the National Government to choose the type of roads most suitable for each section of the work."

The War Department has forwarded the text of this proposal to Governor Walker and he has been requested to state his views.

[Paraphrase.] Although the Department would be loath to conclude any agreement like the above altering the specifications of the road and providing that Panama rather than the United States undertake the construction, nevertheless the Department of State would be prepared, if the War Department offers no objection, to make this concession rather than jeopardize the ratification of the treaty by Panama. The Department learns from the Panaman Legation in Washington that it can expect no action by the Congress of Panama until a reply is received to this last proposal. Kindly take up this matter with Governor Walker and wire your carefully considered views as to whether the Panaman Assembly would fail to ratify the treaty if the United States should decline to make this further concession. [End paraphrase.]

KMLLOGG

819.154/237: Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, January 21, 1927—9 p. m.

[Received January 22—1:30 a. m.]

7. Department's telegram number 3 dated January 19, 1 p. m. I do not think the course suggested in last paragraph would materially influence Assembly's decision because opposition to treaty has been based largely on other reasons. Governor Walker concurs in this opinion, but can see no objection to changing road specifications or permitting Government of Panama to construct it. My personal belief is that neither the military nor the Canal authorities are now especially interested in that type of construction. My feeling is that it would be only reasonable to agree to a cheaper and narrower road which would be amply sufficient for all traffic needs. I perceive no objection to permitting the Government of Panama to undertake the construction of the road . . .

SOUTH

711.192/294: Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, January 27, 1927—9 a. m.

[Received 3:30 p. m.]

9. Last night the Assembly unanimously voted to suspend consideration of the treaty until the President should have the opportunity to negotiate for changes which would completely satisfy the national aspirations. In the preamble of the resolution reference was made to the popular opposition to the treaty and to the fact that the Senate of the United States had not yet considered the treaty although it was nearing the end of its present session.

Yesterday the President and Foreign Minister informed me that they expected a further postponement of action by the Assembly. They did not, however, intimate that the Assembly would virtually reject the treaty in its present form. The Assembly's action, I believe, is chiefly due to the Government's fear of the political effect of insisting upon ratification at the present time. It is clear that the President has been intimidated by the agitation against the treaty. . .

SOUTH

711.192/321

Memorandum by the Acting Chief of the Division of Latin American Affairs (Morgan)

[WASHINGTON,] January 28, 1927.

The Chargé d'Affaires of Panama³ called at my request in connection with the Panaman Treaty. Since a letter was received this morning from the War Department⁴ saying that it had no objection to an exchange of notes for the purpose of clarifying Article II of the Treaty with Panama in accordance with the last proposal of the Panaman Legation, I told Mr. Chevalier that the Department agreed in principle to this proposal and would be willing to effect an exchange of notes in the premises, the substance of the notes to read as follows:

"In order to clarify Article II: Within ninety days following the exchange of ratifications of the treaty the Government of the United States will deposit to the order of the Government of Panama the sum of \$1,250,000. mentioned in the said Article, the latter undertaking on its own account the construction of the said roads with the maximum breadth of fifteen feet and it remains with the National Government to choose the type of roads most suitable for each section of the work."

Mr. Chevalier inquired whether he might inform his Government to that effect and I told him that if he thought it advisable he might telegraph his Government that the State Department agreed in principle to the suggestion of the Panaman Government and that the notes would be exchanged without delay.

Mr. Chevalier then went on to say that, as was reported in the local press this morning, the Panaman Assembly had returned the Treaty to the Executive with a resolution to the effect that it did not fully satisfy the aspirations of the nation and requesting that further negotiations be carried out with a view to having it modified. Mr. Chevalier had received a telegram from his Government giving the text of this resolution of the Assembly but it did not state exactly what provisions of the Treaty were unsatisfactory to the Assembly or what changes they desired made. I asked Mr. Chevalier whether he thought the exchange of notes which we had in mind would clarify the situation and be sufficient to obtain the ratification of the Treaty. He said he thought not, that the main objection in Panama was directed against the Treaty as a whole and especially the clause providing for an alliance between Panama and the United States in time of war, and that it had been fomented by the vigorous anti-American campaign in Latin America which had been so active during the last

³ Don Juan B. Chevalier.

⁴ Not printed.

few weeks. Mr. Chevalier was inclined to believe that his Government intended to delay returning the Treaty to the Assembly for the present in order to let popular opinion cool off and to let the people learn the actual advantages of the present Treaty over the Treaty of 1903.⁵ In a few months the Assembly could be called in special session again, the Treaty could be resubmitted and would, he thought, be ratified without great difficulty.

I pointed out to Mr. Chevalier that our own Congress adjourned on March 4, and therefore if the Treaty had not been ratified by Panama before that date it could not be ratified by the United States until next December. Mr. Chevalier said that he thought this was of comparative little importance since he understood that once the Treaty had been ratified by Panama no serious objection was to be expected in the United States Senate and he did not think that a delay of nine or ten months in the exchange of ratifications would be harmful to the interests of either country.

I told Señor Chevalier that if the Treaty was to be held in abeyance for a few months and if, as it seemed possible, the Panaman Government was going to make some further suggestions it would be better not to effect any exchange of notes until we knew all the views of the Panaman Government. To this Mr. Chevalier agreed.

[STOKELEY W.] MORGAN

711.192/309

*Memorandum by the Chief of the Division of Latin American Affairs
(Morgan)*

[WASHINGTON,] March 1, 1927.

Doctor Alfaro⁶ called for the first time since his return from Panama to discuss the treaty. He went over the whole history of the negotiations explaining various contentions of the Panaman delegates which had not been accepted by the United States. He said that the Panaman Government had hoped that the new treaty would clear up the difficulties which had arisen between Panama and the United States through the difference in interpretation of the Treaty of 1903 but to their great disappointment the Panamans had found the Department insisting absolutely on the American interpretation of the Treaty of 1903. The points on which the Panamans felt most keenly, namely, the establishment of bonded warehouses in the Zone, the wide extension of commissary privileges and the sale of supplies to ships transiting the Canal, had all been insisted upon by the Department

⁵ *Foreign Relations*, 1904, p. 543.

⁶ Dr. Ricardo J. Alfaro, Panaman Minister at Washington.

although in the opinion of the Panamans they were absolutely contrary to Article XIII of the Treaty of 1903.

Mr. Morgan then went over with Doctor Alfaro the list of advantages accruing to Panama from the treaty which Mr. Morgan had drawn up some time ago and discussed them in detail with the Minister. Doctor Alfaro contended that some of these advantages were mere acts of justice which the United States could not possibly withhold, others were reciprocal and the rest amounted to very little. In short, Doctor Alfaro said that the Panaman Commissioners had been greatly disappointed and dissatisfied with the treaty but that they had met with such a firm attitude in the State Department that they had finally, after two years negotiations, been confronted with the alternative of either signing the treaty as it was or going on without it under the Treaty of 1903 as interpreted by the United States. Thus they had nothing to hope for except the choice of two evils. Faced with this dilemma they had signed the treaty and then gone to Panama and explained to the people the situation telling them that in the opinion of the Government it would be best for Panama to accept the new treaty, unsatisfactory as it was and unjust as it was to Panama, rather than to continue under the American interpretation of the Treaty of 1903. However, much to the surprise of the Commissioners and the Panaman Government the people of Panama had absolutely refused to have anything to do with the new treaty saying that they gained nothing by it; that it put it out of the question that they should ever be able to improve their condition or get what they considered justice and fair treatment from the United States. In short, if they signed it the country was hopelessly ruined; they would prefer to go on with the Treaty of 1903 struggling against the American interpretation thereof and still hoping for a fairer treatment some time in the future. Doctor Alfaro was particularly impressed by the fact that the merchants of Panama, whom he had expected to favor the treaty, were almost unanimously against it. They did not feel that the comparatively unimportant assurances granted them under Article IV anywhere near balanced the grave injustices done them in confirming the right of the United States to establish bonded warehouses and to make sales to ships. Furthermore, they were very bitter at the wide extension of the commissary privileges. Above all, Doctor Alfaro said, the people of Panama had been much incensed at the language of the treaty which they felt was not only unnecessarily harsh but in some cases practically insulting to the Panaman people. They, felt, as Doctor Alfaro explained it, that the language of the treaty was "rubbing it in". The Minister had a good deal to say about the complete lack of sympathy of the United States Government and

the absence of any sign of a desire to show any friendship or helpfulness to Panama.

Mr. Morgan then asked the Minister what the Panaman Government desired to do, what concrete proposal, if any, he had to lay before the Department. The Minister said that he had not worked this out yet, he wanted to discuss the whole subject with the Department and try to work out some plan together; he was preparing a memorandum on the subject which he hoped to lay before the Department in a few days. Mr. Morgan said that the Secretary was out of town for two weeks but that Mr. Morgan would be glad to have the memorandum and study it before the Secretary returned and then he and the Minister could take the matter up with the Secretary when the Minister had some definite suggestions to make.

[STOKELEY W.] MORGAN

STATEMENT BY THE DEPARTMENT OF STATE THAT THE UNITED STATES DOES NOT INTEND TO SUPERVISE ELECTIONS IN PANAMA

819.00/1398

*The Representatives of the National Coalition Porrista Party to the Secretary of State*¹

WASHINGTON, December 14, 1927.

DEAR MR. SECRETARY: We the undersigned, members of the National Coalition Porrista Party, of the Republic of Panama, have been commissioned by it to lay before you and the American Government the present political situation in our country, and we respectfully invite your attention to a consideration of the following facts:

The next general and Presidential election in Panama will take place August 5th, 1928. January 1st the Electoral Grand Jury, four of the five members of which are selections and partisans of President Chiari, will convene, and be in session for ten days, for the purpose of naming election officers for the said election for the entire Republic. Preceding the election there is or should be a general registration of the citizens who are eligible and desire to vote at that election.

We and the leaders, officials and members of our party have reason to believe that those citizens opposed to the Chiari Government and the Chiari candidates will not be permitted to enjoy a fair and free election, that they will be deprived of their civil rights, and that the will of the people will be stifled and suppressed.

The former and present acts and utterances of Rodolfo Chiari, and his associate leaders of his party, indicate that the forthcoming election will not be fairly conducted. The treatment accorded by

¹ Handed to the Secretary of State on Dec. 15, 1927, by ex-President Belisario Porras.

the Government to its political adversaries, and the abuses already increasing in number, further shows that they can not expect to enjoy their political rights in the approaching campaign and at the next election.

The members of our party, composing 80% of the eligible voters of our country, ask for no favors at that election. Their appeal and only request to you and your Government is for the assurance that you favor fair and honest elections in our country; that they will be so held and conducted and that you will exercise your influence and power, and in every way meet your Government's obligations, to that end, and that you will let it be known, and especially in Panama, as did President Roosevelt in 1908, under somewhat similar circumstances, that fraud will not be tolerated and that no President chosen by fraudulent methods will be recognized by the Government of the United States.

We would call your attention to the fact that the present Government of Panama, which is making so determined an effort to continue itself in power, has recently, and in violation of the Constitution of the country, changed the electoral law by eliminating the provision of identification, a safeguard against repeating at the polls, and also the right of appeal of citizens who may be unlawfully denied registration or deprived of rights they have under the law to the Courts of the country. Such appeal now must be made to the election officers appointed by President Chiari and his associates. The object and purpose of the repeal of those two very important and long existing provisions is obvious to any one.

We do not ask for or desire intervention or anything like it. Our main object and purpose, and we believe it is also your desire, is to avert the necessity of or occasion for that very thing. But, some kind of positive declaration on the part of the United States, and perhaps surveillance or supervision may be necessary in order to guarantee and give the people of our country a fair and honest election, and a peaceable one, and thus avert disorders and such serious conditions that they may lead to intervention.

If the present Government of Panama is not planning and intending to commit fraud on a big scale at the said next election, and if President Chiari and his associates believe they have the confidence and support of a majority of the Panamanian people, they will not oppose our request for assurances by and guarantees from your Department and Government to the effect that such election will be free, honest and fair, and that the President must be chosen without resort to abuses and fraudulent methods, otherwise he will not be recognized by the United States.

For the purpose of showing our reason for coming to you with, and our belief in the result of, our appeal to you in this matter, may we

and the about 10,000 of our citizens who have sent their written and signed petition to you through your Minister in Panama, Mr. South, cite Article 136 of the Constitution of Panama, and call your attention to that part of it whereby your Government assumes the obligation of preserving Constitutional order in our country, which provision was placed in it at the special request of your Government. That obligation, we respectfully contend, carries with it the duty to prevent or check the causes or conditions that may lead to violations of the Constitution and consequent disorders; and also to guarantee the civil rights of our people as provided in that Constitution.

Article 136 of our Constitution, is as follows:

"The Government of the United States of America may intervene in any point of the Republic of Panama, to re-establish Public Peace and Constitutional Order, should same have been disturbed, in case that, in case of public treaty, that nation should assume, or should have assumed, the obligation to guarantee the independence and sovereignty of the Republic."⁸ (Such a treaty was entered into, and the United States assumed that very obligation; and it is still in force.)⁹

Also, in 1908, when conditions in our country were very similar to those now existing, though perhaps not so threatening, or, serious as they will be later on, and especially should the said requested guarantees be not given, or be refused to us, President Roosevelt addressed the following note to Secretary of War Taft relative to the then existing political and election situation in our country:

"You are instructed to say to President Amador that *the Government of the United States will consider any attempt at fraudulent methods* and to refuse a large number of the people the opportunity of casting their votes in the presidential elections, *as an act which constitutes disturbance of the public peace, which, according to the Constitution of Panama, calls for intervention, and that this Government will not allow the Government of Panama to pass into the hands of any one elected in such a manner.*"

The honorable policy of your Government, as formulated, declared and put into force by that President of your country, who was so beloved and whose memory is now so revered by all our countrymen, as by yours, stands unimpugned and unrevoked. May we hope that

⁸ Cf. the following translated text, from *Foreign Relations*, 1904, pp. 562, 578: "The Government of the United States of America may intervene in any part of the Republic of Panama to re[est]ablish public peace and constitutional order in the event of their being disturbed, provided that that nation shall, by public treaty, assume or have assumed the obligation of guaranteeing the independence and sovereignty of this Republic."

⁹ Convention between the United States and the Republic of Panama for the construction of a ship canal to connect the waters of the Atlantic and Pacific Oceans, signed Nov. 18, 1903, *Foreign Relations*, 1904, p. 543.

your Government still respects it, and will now not hesitate to reaffirm it. In the interests of democracy, of fair and honest elections, and of good government, is not that policy one of the best guarantees your Government can give, adopt or follow, and applicable as well to your country as to ours?

That is all that we have come to you to ask. Is it too much? May we hope you will not refuse it to us.

In conclusion, may we say that we and our friends in Panama, and the at least 80% of the people there for whom we speak, and who are now anxiously awaiting your answer to our and their appeal, are not revolutionists, nor even interventionists; that we believe in and want to live under a reign of law and order; that we are, have always been, and desire to continue to be friends and admirers of your wonderful people and prodigious and powerful nation; that we trust in your sense of fairness and justice; and that we want to co-operate with you in every way that will be for the good, benefit and prosperity of our country and the credit and honor of yours.

With great esteem, and thanking you for the audience you have so graciously accorded us, we remain [etc.]

BELISARIO PORRAS
J. A. JIMÉNEZ

819.00/1408

The Panaman Minister (Alfaro) to the Secretary of State

[Translation **]

No. 878-D

WASHINGTON, December 15, 1897.

EXCELLENCY: Pursuant to instructions from my Government, I beg Your Excellency kindly to inform me whether the policy outlined by Secretary of State Elihu Root in his notes of December 4, 1905,¹¹ and February 21, 1906,¹² and by Secretary of War William H. Taft in his instructions to the Governor of the Canal Zone, Mr. Magoon, on April 28, 1906,¹³ continues to be the policy of the Government of Your Excellency in connection with the question of intervention by the United States in the internal affairs of the Republic of Panama.

My Government is especially interested in obtaining from the Government of Your Excellency an express statement on this point at the present moment.

With the expression [etc.]

R. J. ALFARO

¹¹ Supplied by the editor.

¹² *Foreign Relations*, 1906, p. 719.

¹³ *Ibid.*, 1906, pt. 2, p. 1206.

¹⁴ *Ibid.*, p. 1206.

819.00/1408

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, December 23, 1927.

SIR: I have received your note No. 373-D of December 15, 1927, inquiring, pursuant to instructions from your Government, whether the policy outlined by Secretary Root in his notes of December 4, 1905, and February 21, 1906, and by Secretary of War Taft in his instructions to the Governor of the Canal Zone, Mr. Magoon, on April 26, 1906, continues to be the policy of the United States Government in connection with the question of intervention by the United States in the internal affairs of the Republic of Panama.

In reply I am pleased to inform you that the policy outlined in the communications referred to above continues to be the policy of this Government. As stated in substance by Secretary Root, the primary duty to maintain order and to enforce the election laws devolves upon Panama. As between the two parties, the United States will maintain absolute impartiality and will not, directly or indirectly, lend support to any candidate for president or other office. The United States will, of course, carry out its treaty obligation guaranteeing to maintain the independence of Panama, and will exercise the treaty right to maintain order in Panama, Colon and the territories and harbors adjacent thereto but it does not intend to supervise the election in Panama. Of course, it is the earnest wish of the United States that there should be a free, fair and honest election in Panama, as such elections are necessary to the peace and prosperity of the state, but the United States cannot assume the primary obligation of supervising the election.

I am enclosing herewith an extra copy of this communication which I have the honor to request you to be so good as to transmit to Doctor Belisario Porras in reply to the letter and memorandum^{12a} which he left at the interview which he had with me in your presence on December 15.

Accept [etc.]

FRANK B. KELLOGG

819.00/1401

Doctor Belisario Porras to the Secretary of State

NEW YORK, December 23, 1927.

[Received December 29.]

MY DEAR MR. SECRETARY: Agreeably to Your Excellency's request, Doctor Alfaro, the Minister of Panama, has transmitted to me Your Excellency's note of December 23rd in reply to Doctor Alfaro's inquiry

^{12a} Memorandum not printed.

respecting the policy of the United States Government as to American supervision of the Panaman elections of 1928. I note from Your Excellency's communication that it was also intended to serve as a reply to the letter and memorandum which I had the honor to hand to Your Excellency on December 15th wherein I asked the United States Government on behalf of that branch of the Liberal Party, which I represent, to give assurance and guarantee to the people of Panama free and fair elections in 1928.

It is with deep regret that I have to point out that Your Excellency, in his note to Señor Alfaro, did not see fit to meet the issues posed in my said letter and memorandum, except by a curt declaration that the United States "does not intend to supervise the elections in Panama."

Your Excellency's statement that "the primary duty to maintain order and to enforce election laws devolves upon Panama" is a matter of common understanding. It is, however, equally a matter of general knowledge that the United States Government has on four separate occasions considered that it shared with the Republic this duty. Irrefutable evidence adduced in my memorandum to show the actual existence of similar conditions to warrant such action on the part of the United States Government next year was entirely ignored in Your Excellency's reply.

It is, naturally, to be supposed "that the United States will maintain absolute impartiality, and will not, directly or indirectly, lend support to any candidate for President or other office." That the "United States will carry out its treaty obligation guaranteeing to maintain the independence of Panama, and will exercise the treaty right to maintain order in Panama, Colon and the territories and harbors adjacent thereto" is to be expected in view of the nature and logical implications of the international servitude imposed by the Hay-Bunau Varilla Treaty¹⁴ upon the Republic of Panama vis a vis the United States.

The expression by Your Excellency of an "earnest wish that there should be a free, fair and honest election" in Panama next year is most laudable, but, it is hardly more than a pious vow which might be appropriately formulated in respect to elections in free democracies everywhere. It is, I beg leave to say, Mr. Secretary, slightly less than the people of Panama feel they have a right to expect of the Nation which created the Republic of Panama and which exercise in respect of it, by virtue of treaty and the Panaman Constitution, the right of intervention whenever, in the judgment of the American authorities, such intervention appears indicated by the exigencies of American interests in the Canal Zone.

¹⁴ Convention signed Nov. 18, 1903, by John Hay for the United States and Philippe Bunau Varilla for Panama, *Foreign Relations*, 1904, p. 542.

The expression of the just mentioned wish, promptly qualified by the statement that the United States "cannot assume the primary obligation of supervising the election" lends itself only to the interpretation that the party in power in Panama is at liberty to disregard Your Excellency's wish and conduct the elections exactly as it pleases and may find to its advantage. Possibly the United States might view with concern or regret a failure on the part of the Panaman Government to respect Your Excellency's wish, but, it is significant that Your Excellency leaves no doubt that the holding of free, fair and honest elections in Panama is not a matter about which the United States Government is disposed to do more than express a wish.

This reserve in regard to the burning issue of the moment in Panama, and possibly a question of life and death for hundreds of people in that country, as a similar issue has proved in Nicaragua, is in striking contrast with the forthright words of President Roosevelt in his instruction to his Secretary of War, the Honorable William H. Taft:

"You are instructed to say to President Amador that *the Government of the United States will consider any attempt at fraudulent methods and to refuse a large number of the people the opportunity of casting their votes in the presidential elections, as an act which constitutes disturbance of the public peace, which, according to the Constitution of Panama, calls for intervention, and that this Government will not allow the Government of Panama to pass into the hands of any one elected in such a manner.*"

Coming down to more recent times one can only be struck by the marked dissonance in tone between the mere expression of a mild wish for fair elections in the Republic of Panama, over which the United States exercises the indubitable right of intervention, and the ringing pronouncements of His Excellency the President of the United States, and also of his Special Representative, Mr. Stimson, in respect of the obligation and determination of the United States to ensure fair elections in Nicaragua, even though it be with the aid of some 2500 Marines and at the cost of hundreds of lives. The contrast is all the more singular as American intervention in Nicaragua to insure fair elections is founded on no authorization of treaty right, or provision of either the American or Nicaraguan Constitutions. As a matter of fact, the express stipulations of either document would seem to inhibit the exercise of political sovereignty by military forces of the United States in Nicaragua in the manner now being followed, especially when one considers that there has been no declaration of war by the American Government, nor any act of Congress authorizing the use of the American forces for the pacification of Nicaragua. In the case of Panama, however, there is both Treaty and Constitutional authority,

as well as numerous precedents for the American supervision of the elections in that country.

A careful analysis of Your Excellency's note would seem to show that the United States Government now proposes to exercise its right of intervention in Panama only if and when public order in that country is disturbed in a manner to cause the appropriate American authorities to recommend such intervention. This means, that, should the elections be unfairly held, and fraudulent methods be used, and should Panaman citizens, victims of such practices, patiently accept the results and endure the conditions so imposed upon them, the United States Government will view the entire proceeding with equanimity and perceive therein no ground for its intervention. On the other hand, should such eventualities not be submissively tolerated, and should an outraged citizenry have recourse to the only means available to an oppressed people for the redress of their wrongs and their liberation from a tyrannous minority government founded only on force, the United States Government will only interest itself in the situation when and if conditions of positive disorder have arisen.

This has been more or less the course of American policy in the recent history of Nicaragua, where American intervention was only made after a long period of civil war and when one party was on the eve of triumph, whereupon the intervening force of the United States was used to stay the onward march of that party and sustain in power its adversary against the vigorous protest of Vice-President Sacasa, the head of the Liberal Party. It would seem, Mr. Secretary, that if American intervention has in the event of civil strife ultimately to be the end and portion of the Isthmian Republics, under President Coolidge's newly announced policy of discouraging revolutions in these countries, that intervention might better be preventive and not merely corrective, or really, as it is in Nicaragua, punitive of a considerable element of the people. In other words, Mr. Secretary, it would appear that if the United States proposes not to allow the people in the Central American Republics in general and Panama in particular to right their political wrongs and resist intolerable abuses in the way that free peoples in all ages and climes have done, then the United States, especially in Panama, should take adequate measures to ensure fair elections, without which a democratic form of government cannot exist, and thereby remove the fundamental cause of such disorders.

May I respectfully submit, Mr. Secretary, that to tell the Panaman people that the United States Government is not responsible for the manner in which the Panaman Government conducts its elections, but, that the United States Government will not allow the Panaman people

to resort to force to correct a situation which is not otherwise remediable, is tantamount to forcing an oppression on them whenever a regime in power in their country does not conform to the standards of free republican Government.

I hope, Mr. Secretary, that Your Excellency will believe me, when I assure you, that it is farthest from my desire to raise the specter of revolution for my country. I have undertaken merely to bring to the attention of Your Excellency's Government through this note and my previous notes the inescapable logic of the political situation of my country in its peculiar relation to the United States. The question is not one for legalistic sophisms. The issues are vital, human problems, the solution of which can only be reached if the Government of the United States recognizes the obligation to guarantee to its ward, the Panaman Republic, what President Coolidge declared in his speech of last April the United States Government proposes to encourage in Central America, namely, the orderly succession of governments by means of fair elections.

The rights of the United States in and over Panama are indisputable and inevitable. We do not pretend to question them. We merely wish to assert that where there is a right there is an obligation; if not express, then implied; if not legal, then moral. The United States Government cannot assert a right to intervene in the political affairs of Panama and supervise its elections only when and as it may suit American convenience, without thereby assuming the moral obligation to see that political fair play and free elections are always observed by Panaman Governments. It was a due recognition of this moral obligation which unquestionably impelled President Roosevelt to lay down the doctrine set forth in the above extract from his instructions to Secretary of War Taft, which resulted in one of the most peaceful elections and satisfactory governments in the history of Panama. It now remains to be seen whether that lofty statement of policy by President Roosevelt is to be upheld by Your Excellency's Government or repudiated. Moreover, as a matter of self-interest, Your Excellency's Government should feel a vital concern over the maintenance of free republican institutions in Panama.

With the foregoing considerations in view, I desire again to invite your Excellency's attention to my letter and memorandum above mentioned to the end that steps may be taken by the United States Government to ensure the holding of free and fair elections in Panama in 1928.

With great esteem, I am [etc.]

BELISARIO PORRAS

RESERVATION BY THE UNITED STATES OF RIGHTS REGARDING
RADIO AND RAILROAD CONSTRUCTION IN PANAMA

819.6156 T 61/-

The Minister in Panama (South) to the Secretary of State

No. 1301

PANAMA, January 25, 1927.

[Received February 1.]

SIR: I have the honor to report that a contract has recently been signed by the Panaman Government and Mr. Henry Blair, representing the Tonosí Fruit Company, a subsidiary branch of the United Fruit Company established according to the laws of the State of Delaware. According to the terms of this contract, which will soon be presented to the National Assembly for its consideration, the Tonosí Fruit Company will establish at the port of Tonosí in the Province of Los Santos a port similar to the one maintained by the United Fruit Company at Almirante. The Tonosí Fruit Company will expend large sums in construction work in the Tonosí Valley. This work will include the erection of a concrete wharf capable of accommodating steamers drawing as much as 26 feet of water, oil storage tanks with a capacity of 50 or 60 thousand barrels of crude oil, and the construction of a 60 or 70 kilometer railway line, with a steel bridge across the Tonosí River. A large number of dwelling houses will also be constructed to house the four or five thousand laborers who will be employed by the Company. A large village similar to that already erected at Almirante will thus be established in the Tonosí Valley.

Extensive irrigation work including the construction of a dam in the upper Tonosí River will be undertaken. This irrigation work is necessitated by the annual dry season on the Pacific side. After full development about 15 or 16 thousand hectares with an annual production of about four million stems of bananas will be under cultivation.

The banana cultivation at Tonosí will be sufficient to load at least one steamer a week. Developments which the Tonosí Fruit Company contemplates involve an expenditure of from 9 to 12 million dollars.

Mr. Blair informs me that the United Fruit Company is anxious, through its subsidiary, to establish large plantations on the Pacific coast of Panama because their production on the Atlantic coast, particularly in the Bocas del Toro District, is rapidly declining. The United Fruit Company has large areas of reserve banana lands in

other countries but desires to continue business in Panama where its relations have always been so satisfactory with the Government. The United Fruit Company has already carried on extensive explorations in other parts of the Republic of Panama in an attempt to find other regions suitable for large scale agricultural developments.

The text of the Tonosí Fruit Company's contract is transmitted herewith in clipping from *El Tiempo* of January 14th.¹⁵

I have [etc.]

J. G. SOUTH

819.6156 T 61/1 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, February 12, 1927—11 a. m.

[Received 6:20 p. m.]

16. My despatch 1301 of January 25. Article 12 of the contract with the United Fruit Company now pending before the Assembly would authorize the Company to establish such radio, telegraph and telephone stations as it may consider indispensable for the service of its plantations at Tonosí. [Paraphrase.] This appears to be a direct violation of the existing arrangement between the United States and Panama regarding wireless control. It is my belief that a protest should be lodged with the Panaman Government to prevent the establishment of a dangerous precedent even if the Department after being properly consulted should be disposed to permit the Fruit Company to erect a wireless on its new plantations. Immediate instructions requested. [End paraphrase.]

SOUTH

819.6156 T 61/1 : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, February 14, 1927—7 p. m.

7. Your 16, February 12, 11 a. m. You are instructed to make an immediate protest, pointing out to the Panaman Government that the proposed Article 12 of the contract which grants the company the right to establish radio telegraphic stations within the territory of the Republic violates the existing arrangement with the United States set forth in Presidential Decree No. 130, August 29, 1914.¹⁶

KELLOGG

¹⁵ Not printed.

¹⁶ *Foreign Relations*, 1914, p. 1051.

819.6156 T 61/4 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, February 17, 1927—10 a. m.

[Received 2:53 p. m.]

21. The Tonosí contract was approved by the Assembly yesterday. I handed a note to the Minister for Foreign Affairs yesterday afternoon requesting a definite statement that any concession granted to the Tonosí Fruit Company for the erection of wireless station was subject [to] existing arrangement with the United States as embodied in the decree of 1914, and further requesting that similar statement be conveyed to the company. He seemed willing to furnish such a statement and promised a formal written reply in the near future. I have also obtained from the local representative of United Fruit Company a written statement recognizing that the company is "specifically bound with respect to any wireless station in Panama" by the agreement of 1914. [Paraphrase.] Governor of the Panama Canal¹⁷ in a further letter to me states that he does not desire to object to the construction of the Tonosí railroad. He feels, however, that the attention of the Government of Panama should be invited to the fact that the concession of the Panama Railroad Company gives the company the exclusive right to construct railways on the Isthmus of Panama. In order to safeguard the interests of the United States in the future it might be advisable for this Legation to present a note to the Government of Panama setting forth that the failure of the United States to protest in this case should not be regarded as a relinquishment by the Panama Railroad Company of any rights claimed under its concessions. Instructions desired. [End paraphrase.]

SOUTH

819.6156 T 61/4 : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, February 19, 1927—5 p. m.

8. Your 21, February 17, 10 a. m. Please present note as suggested.

KELLOGG

¹⁷ M. L. Walker, also president of the Panama Railroad Company.

819.6156 T 61/8

The Minister in Panama (South) to the Secretary of State

No. 1333

PANAMA, February 21, 1927.

[Received March 4.]

SIR: With reference to my telegram of February 17th, 10:00 A. M. and to the Department's reply of February 19th, 5:00 P. M., I have the honor to transmit herewith a copy of a note which was delivered today to the Panaman Foreign Office regarding the railroad concession embodied in the recently approved contract with the Tonosí Fruit Company.

I have [etc.]

J. G. SOUTH

[Enclosure]

The American Minister (South) to the Panaman Minister for Foreign Affairs (Alfaro)

[No. 566]

PANAMA, February 21, 1927.

EXCELLENCY: With further reference to the concession granted by the Government of Panama to the Tonosí Fruit Company, I am instructed to inform Your Excellency that my Government has observed that the concession authorizes the construction by the Fruit Company of a railroad for the service of its agricultural undertakings and also for the use of the public.

While the Government of the United States is not disposed to object in this specific case to the construction of the projected railway line, I am instructed to inform Your Excellency that the fact that no objection is made to the granting without the consent of the United States of the concession referred to is not to be considered as in any way indicating that the United States Government relinquishes any of the benefits enjoyed by the Panama Railroad Company under Article 2 of its concession of 1867.¹⁸

I avail myself [etc.]

[File copy not signed]

819.6156 T 61/11

The Minister in Panama (South) to the Secretary of State

No. 1413

PANAMA, May 14, 1927.

[Received May 27.]

SIR: Referring to my despatch No. 1333 of February 21, 1927, enclosing a copy of a note sent on that date to the Panaman Foreign Office regarding the railroad concession embodied in a contract between the Panaman Government and the Tonosí Fruit Company, I have the honor to transmit herewith a copy, with translation, of a note dated April 27, 1927, from the Acting Secretary of Foreign Relations

¹⁸ For text of article 2, see memorandum on railroad construction, etc., p. 504.

acknowledging my note and stating that it is the opinion of his Government that the 1867 concession cannot be interpreted as having conferred the exclusive right to build railroads on the Isthmus and that the right should be understood as limited to railways between the Caribbean Sea and the Pacific Ocean under Article V of the Hay-Bunau Varilla Treaty.¹⁰

The monopoly rights of the Panama Railroad Company for the construction of railroads on the Isthmus have long been differently interpreted by the Governments of the United States and Panama and have been the subject of voluminous correspondence between the two Governments without an agreement being reached. As the subject is not covered in the memoranda on the history of diplomatic relations between the United States and Panama prepared in the Division of Latin American Affairs in 1924,^{11a} an outline of the attempts at railroad construction in Panama and their relation to the monopoly rights of the United States and the Panama Railroad Company has been prepared by a member of the staff of the Legation and is transmitted herewith.

I have the honor to request the Department's instructions as to the answer which should be made to the Acting Secretary's note of April 27, 1927. Inasmuch as a thorough exposition of the contentions of the Government of the United States was made in the notes of the Legation to the Foreign Office in 1919, 1920 and 1921 relating to the so-called Hyatt concession, as indicated in the enclosed memorandum,¹² and inasmuch as the note of March 3, 1921, does not ever appear to have been answered by the Foreign Office, it is respectfully suggested that I be authorized to inform the Acting Secretary that the views of the Government of the United States have not changed and to refer him to the Legation's note of March 3, 1921.

I have [etc.]

J. G. SOUTH

[Enclosure 1—Translation]

The Panaman Acting Minister for Foreign Affairs (Morales) to the American Minister (South)

S. P. No. 804

PANAMA, April 27, 1927.

MR. MINISTER: I have the honor to refer to Your Excellency's courteous note No. 566, dated February 21st, last,¹³ in which you state that the fact that the Government of Your Excellency does not make any objection to the concession given to the Tonosí Fruit Company to construct a railroad in the province of Los Santos, "is not to be considered as in any way indicating that the United States Govern-

¹⁰ *Foreign Relations*, 1904, p. 548.

^{11a} Not printed.

¹² See post, pp. 512 ff.

¹³ Ante, p. 503.

ment relinquishes any of the benefits enjoyed by the Panama Railroad Company under Article 2 of its concession of 1867."

The opinion of my Government with respect to this subject is that the concession given to the Panama Railroad Company by the Republic of Colombia in 1867 cannot be interpreted as having conferred the exclusive right to construct railroads in all directions on the Isthmus of Panama. Such concessions must be understood as being limited to railways between the Caribbean sea and the Pacific ocean, in the same terms as were accepted by the Government of Panamá in Article 5 of the Hay-Bunau Varilla Treaty.

I take [etc.]

RICARDO A. MORALES

[Enclosure 2]

*Memorandum on Railroad Construction and Monopoly Rights of the United States and the Panama Railroad Company*²²

MONOPOLISTIC PROVISIONS OF PANAMA RAILROAD COMPANY CONCESSION

The contract between the United States of Colombia and the Panama Railroad Company made in 1867 to last for a period of ninety-nine years completely superseded the prior contract made in 1850. By the terms of the 1867 contract, the Panama Railroad Company was granted monopoly rights for the duration of the concession covering (1) the construction of any railroad on the Isthmus of Panama and (2) the establishment of any carriage roads across the Isthmus. These two exclusive rights were granted, respectively, in Articles II and V of the concession. These articles are as follows, in the original Spanish of the concession:

The true translations of the articles appear to be those given below:

"ARTICLE II

The Government of the Republic binds itself, during the time that the exclusive privilege which is conceded to the Company for the working of the railroad remains in force, not to construct for itself, nor to concede to any person or company, by any title whatever, the power to establish any other railroad on the Isthmus of Panama and it also stipulates that, while the said privilege continues in force, the Government shall not have the power of undertaking for itself, nor permitting any person to undertake, without the concurrence and consent of said Company, the opening or working of any maritime canal which may unite the two oceans across the said Isthmus of Panama to the west of the line of Cape Tiburon on the Atlantic and Point Garachiné on the Pacific. But it remains stipulated that the right which is conceded to the Company to give its consent does

²² Prepared by Allan Dawson, third secretary of the American Legation in Panama.

not extend to its opposing the construction of a canal across the Isthmus of Panama (except on the actual route of the railroad itself), but only to its exacting an equitable price for such privilege, and as indemnification for the damages which the Railroad Company may suffer by the rivalry or competition of the canal.

If the sum which may be demanded by the Company shall not appear equitable to the Government of the United States of Colombia, then it shall be fixed by arbitrators in New York or Panama, one to be named by the Government and the other by the Company, and in case of their not agreeing the two shall name a third, whose decision shall be without appeal.

In pronouncing their decision the arbitrators shall take into consideration the grounds upon which the Company rests, and the information which the Government shall give upon the matter, and in view thereof they shall decide without appeal as they may deem most just and equitable.

The sum, whatever it may be, which shall be finally designated, shall belong one-half to the Railroad Company and one-half to the Government of Colombia."

"ARTICLE V

During the whole term of this privilege the Company shall have exclusive right to establish across the Isthmus of Panama within the zone indicated in Article Second, any class of carriage-roads whatever, from one ocean to the other. The Colombian Government binds itself not to undertake for itself, nor to permit any other company or person to undertake within said zone any other carriage-road, either macadamized, or of plank, or of any other class suitable for the use of wheeled vehicles, between the two oceans across the Isthmus of Panama. It being nevertheless well understood that the privilege of which this article treats cannot and must not in any manner prevent the construction of any kind of roads in a direction distinct from that expressed, nor the completing, preserving, and improving of roads already existing, or which are actually being constructed on said Isthmus."

The contract made in 1867 was modified by contracts made in 1876 and 1880 and by amendments agreed upon on August 18, 1891, but none of the modifications affected Articles II or V.

CONFIRMATION OF MONOPOLY PRIVILEGE DURING COLOMBIAN RÉGIME

The first question regarding the monopoly granted in Article II of the 1867 concession appears to have arisen in 1881. Under date of January 25, 1881, the Departmental Government of Panama conceded to José Augustin Arango the right to build a streetcar system in Panama City. The Panama Railroad Company protested that under the terms of its concession the Government could not concede such a right. Its contention was confirmed by the Senate of Plenipotentiaries of the Sovereign States of Colombia in a resolution dated May 14, 1884. This decision sustained the Panama Railroad Com-

pany's monopoly right to construct railroads on the Isthmus. It may be found in 19-C-X3, 4 and 5, Old French Files, in the Legal Library of the Canal Zone but is probably not available in Washington.

ACQUISITION BY THE UNITED STATES OF THE PANAMA RAILROAD COMPANY

In accordance with the provisions of a Congressional Act "to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans" approved June 28, 1902,²³ the rights, real property, etc. of the New Panama Canal Company, including all the capital stock of the Panama Railroad Company held by the latter, were purchased by the United States in 1903. By this purchase the United States obtained possession of about sixty-nine seventieths of the Panama Railroad Company's stock.

RELEVANT PROVISIONS OF THE HAY-BUNAU VARILLA TREATY ²⁴

By Articles VIII and XXII of the 1903 Treaty for the construction of a Ship Canal, negotiated between the United States and the Republic of Panama, the United States acquired all the present, future, and reversionary rights that Panama, which had succeeded to Colombia's sovereign power on the Isthmus, might have in the Railroad concession. These two articles of the treaty are as follows:

By Article V of the 1903 treaty the United States acquired in perpetuity a monopoly for the construction, maintenance and operation of any canal or railroad across the Isthmus. The wording of this article is:

RELATIONSHIP OF THE UNITED STATES AND THE PANAMA RAILROAD COMPANY

The United States has exercised close control over the Panama Railroad Company since purchasing the greater part of its stock. The Governor of the Panama Canal is also the President of the Railroad and the officers and directors are chosen by the United States and the two enterprises are accordingly coordinated. There is not, however, any formal agreement between the Government of the United States or the Canal Zone and the Railroad. None of the Acts of Congress and Executive Orders dealing with the Railroad seem to have defined the relation between the American Government or the Canal Zone

²³ 32 Stat. 481.

²⁴ *Foreign Relations*, 1904, p. 543.

and the Railroad, or to have enunciated any policy for the conduct of the latter. The Panaman Government has at various times questioned the legal status of the Railroad. For an outline of this phase of the subject see Miss Atcherson's "Outline of the General Legal Status and the Incidental Activities of the Panama Railroad Company, Part I, General Legal Status" dated February 8, 1924, of which there is a copy in the Division of Latin American Affairs.²⁵

FIRST ATTEMPT OF FOREIGN CAPITAL TO SECURE CONCESSION

The first occasion to question the right of Panama to grant a concession for a railroad without previously consulting the United States or the Panama Railroad Company apparently arose early in 1907. A bill granting a railway concession from Panama to Chiriqui to a British syndicate was introduced into the National Assembly. On being informed by Minister Squiers of the proposed concession, the Department replied on January 4, 1907 by telegraph: "Your telegram in regard to Chiriqui Railway Concession. Of course Panama cannot grant any such concession without the consent of the United States. Ascertain and report facts fully." The National Assembly closed its ordinary session without acting on the bill and the Secretary of Foreign Relations assured the Minister orally that the President had no intention of granting the concession in question.

CONSTRUCTION OF TRAMWAY SYSTEM

In 1910, a project for the construction of a tramway system in the City of Panama and its surroundings was formulated and discussed by the promoters with the President of the Panama Railroad Company who was also Chairman of the Isthmian Canal Commission. License for the Panama Tramways to operate in the Canal Zone was issued on December 6, 1910, and the concession of the Municipality of Panama was not made until June 21, 1911. While formal permission to construct the part of the street railway which was to be in Panaman territory does not appear actually to have been granted by the United States Government or the Panama Railroad Company, the granting of a license for operation in the Canal Zone was in effect such a grant.

DZIUK CONCESSION

In 1910 the Balboa and Pacific Estates, Limited, a British corporation controlled by a Herr Dziuk and other German capitalists, applied for a concession from Panama for the construction of a narrow gauge railroad in the Darien region. The Department, through the *Chargé d'Affaires ad interim*, suggested a modification in the proposed con-

²⁵ Not printed.

tract. The modification was incorporated in a second draft of the concession which was formally approved early in 1911. In the final contract, the concessionary was given an option to construct any branches deemed necessary for the development of the enterprise upon written application to the Executive Power for permission to begin to locate such branches.

Shortly after the concession had been granted, the concessionaries began efforts to secure from the President of the Republic authority to extend the railroad to Panama City. When this came to the Department's attention it directed the Legation to intimate that the President of Panama would be expected to defer granting the application pending full consideration by the Government of the United States. The President agreed to defer granting permission for the proposed extension and the matter was taken under consideration by the State and War Departments and the Canal Zone authorities.

DEPARTMENT'S STATEMENT OF POLICY REGARDING FOREIGN CONCESSIONS

Finally, on September 20, 1911, the Department sent the Minister an instruction to be read to the Minister for Foreign Affairs objecting to the extension of the Dziuk concession and setting forth concretely for the first time the contentions of the United States with regard to railroad concessions in Panama.²⁶ In the instruction was embodied the following statement of policy:

"As to the Dziuk railroad concession, the Department does not believe that it will ever come to anything without a branch beyond the Chucunaque River or a trans-Continental connection, and the Government of the United States is entirely unable, for fundamental strategic and political reasons in which the interests of the Government of Panama are equally involved, to acquiesce, under any circumstances, in further railway extension beyond the limits herein indicated. (i.e., the original limits of the Dziuk concession—A.D.) . . ."

In general, as to foreign railway or other concessions having a possible bearing upon the strategic and political interests of the two countries, while very sensible of every legitimate interest of Panama and very desirous of fostering in every way the growth and prosperity of the Republic, the Government of the United States feels that it will be more regardful of the interests of Panama to examine in advance and express itself after ample deliberation upon any project than it would be to keep silent and then perhaps be obliged at a later date to assert its treaty rights in a manner which might involve the Republic of Panama in serious financial losses.

In giving to the Government of Panama the reply of the Government of the United States that it cannot acquiesce in the extension of the proposed railway concession, or any other foreign railway project involving an important extension up the River Chucunaque, or in any such manner as either to approach in effect a trans-continental line

²⁶ *Foreign Relations*, 1912, p. 1171.

or to approach at all within the vicinity of the Canal Zone, you will add that any question of railway lines deemed to be really necessary would receive the earnest study of this Government."

The Department based its contention on the right of the Government of the United States to intervene in the granting of concessions by Panama on its treaty obligation to protect and to maintain the Republic of Panama and the corollary right to do the things necessary to such protection. It was stated that:

"It would appear that if rights or properties so needed for the protection of both countries and the control of which was at any time desired by the United States for these broad purposes should have been meanwhile made the subject of concessions by Panama to foreign capitalists, then in the expropriation and adjustment which it would fall to Panama to carry out, the Government of Panama might find itself under serious foreign embarrassment and subject to large international reclamations.

As to any question of Panama's being a party to any concession for a trans-continental railroad, this would be in point-blank violation of the treaty."

Eleven articles of the Panama Canal Treaty were cited but Articles VIII and XXII, by which the United States was confirmed in the rights acquired by it from the New French Canal Company and set forth in Articles II and V of the Panama Railroad Company's 1867 concession were not included. No distinction was made in the instruction between railroad and other concessions. Apparently, the Department was not then in possession of the facts concerning the monopoly rights which had been granted in the 1867 concession.

As a result of the representations made, the right to extend the proposed Darien railroad to Panama City was refused by the President. The concessionaries appear to have abandoned their plans completely after a time.

PROJECTS FOR RAILROAD OWNED BY PANAMAN GOVERNMENT

On January 6, 1909, the National Assembly approved Law 62 of that year, which provided for the construction, operation and ownership of railroads by the Panaman Government. No action under the authorization was then taken by the Government of Panama and no protest appears to have been made by the United States.

In January, 1911, the National Assembly passed Law 2 which authorized the construction of a railroad from Panama to David by contractors for the account of the Government and bids were asked for on March 6, 1911. Various bids by American and foreign firms were made but they were considered unsatisfactory by the Government and action on them was delayed until after the purport of the Department's instruction of September 20, 1911, referred to above,

was made known to the Secretary of Foreign Relations. In December, 1911, a draft contract between the Secretary of Public Works and an American firm for the construction of a section of the Panama-David Railway was submitted by the Secretary of Public Works to the Legation with the request that it be transmitted to the Government of the United States for its consideration in accordance with the suggestions made in the instruction of September 20, 1911. After consultation between the State and War Departments a board composed of the Minister, a member of the Isthmian Canal Commission and the Chief Engineer of the Panama Railroad Company was appointed to consider the technical merits of the proposed contract and it recommended certain changes. After further negotiation between the Government of Panama and the bidders the project seems to have been temporarily abandoned.

DUNCAN CONCESSION

On December 30, 1912, a contract for the construction of a railway to have its eastern terminus at the Chagres River was signed by the Secretary of Public Works and Mr. B. B. Duncan, an American citizen. As soon as the Minister learned of the contract he asked that further action on it be delayed pending its consideration by the Government of the United States. The request was complied with although the Secretary of Foreign Affairs stated orally to the Minister that he understood the Department's instruction of September 20, 1911, to refer only to foreign concessions and not to those granted to Americans. A commission similar to the one which had considered the proposed contract for the construction of a railroad from Panama to David was organized. Its report was unfavorable to the Duncan contract and after this was made known to the Panaman Government the contract was withdrawn.²⁷

In later years, Mr. Duncan applied for new concessions which were modifications of his original contract and they were considered by the Panaman Government, in one case the application being actually sent to the National Assembly. In each case, the Legation informed the Foreign Office that the United States still objected to the contract and it was quashed.

RENEWAL OF PROJECT FOR GOVERNMENT OWNED RAILROAD

On January 14, 1913, a copy of a draft of a new law for the construction of the proposed railway from Panama City to David for the account of the Government was transmitted to the Minister by the Secretary of the President. On being informed of the railway construction bill, the Department instructed the Minister to request the

²⁷ See *Foreign Relations*, 1913, pp. 1081 ff.

Panaman Government to delay the presentation of the bill to the National Assembly until the Government of the United States could give it consideration and the Secretary of Foreign Affairs advised the Minister that further consideration of the bill would be delayed as requested. The bill was nevertheless presented to the National Assembly. While it was under consideration there, protest against the wording of two of its articles regarding provisions for financing was made by the Legation pursuant to instructions from the Department. The bill was passed without change as Law 29 and signed by the President of Panama in the face of the protest but the latter stated orally to the Minister that the Department's wishes regarding financing would be followed.²⁸

HEBARD CONCESSION

In February, 1914, a contract for the construction of a railroad from Pedregal to Boquete and Concepcion for the account of the Government of Panama was signed by the President of Panama and R. W. Hebard and Company, Incorporated. The method of financing the project was left open for consultation in the United States between the contracting parties and the Department. On March 20, 1914, the Panaman Minister in Washington applied through the Secretary of War to the Panama Railroad Company for its consent to the construction of the Pedregal-Boquete-Concepcion line and also a proposed line in the province of Los Santos. A resolution granting the desired consent was unanimously adopted by the Board of Directors of the Panama Railroad Company on March 25, 1914.

The financing of the construction was taken up by the Panaman Minister with the Department later. A loan to be floated in New York was, after consideration, approved by the Department under certain conditions but the contract as a whole was not submitted to it. Further negotiations between the American and Panaman Governments regarding the Hebard contract were concerned for the most part with the financing of the construction.²⁹

BRANCH OF CHIRIQUI RAILROAD

On July 28, 1916, the Panaman Minister in Washington addressed a note to the Department asking for its approval of the construction of a branch of the Chiriqui railroad.³⁰ A bill authorizing the construction was passed by the National Assembly without awaiting the answer of the Department. Consent in principle to the construction of the extension was given by the Department in notes addressed to

²⁸ See *Foreign Relations*, 1913, pp. 1094 ff.

²⁹ See *ibid.*, 1914, pp. 1028 ff.

³⁰ *ibid.*, 1917, p. 1179.

the Panaman Legation in Washington on August 14, 1917³¹ and June 8, 1922.³² The project to build the branch was dropped during the war period but taken under consideration again in 1922 and construction finally undertaken in 1926.

PANAMA SUGAR COMPANY'S CONCESSION

Late in 1918, the Panama Sugar Company, an American Company, applied for a concession allowing it to build a short railway line in Western Chiriqui in order to bring its produce to a sea port. The application was made through the Legation and the contract was approved by the Panaman Government. Because of the form of presenting the application, formal submission to the Department was evidently not deemed necessary.

HYATT CONCESSION

The following year the Republic of Panama gave Mr. J. M. Hyatt, an American citizen, a concession for the construction of a narrow gauge railroad near Porto Bello. The Minister under date of November 1, 1919, addressed the Secretary of Foreign Affairs in part as follows:

"The Honorable, The Secretary of War of my Government points out that, it would appear that Your Excellency's Government had entered into this contract without first ascertaining the views of the Government of the United States regarding the proposition.

I am instructed by the Department of State of my Government to bring this matter to the attention of Your Excellency's Government, and to refer to the position steadily maintained by my Government respecting railroad construction in Panama, that no contract for such construction should be concluded by the Government of Panama without first submitting the proposition to the Government of the United States."

The Secretary of Foreign Affairs replied on December 26, 1919, citing Article V of the Canal Treaty, stating that the concession was not in opposition to that article, and asking that he be informed of the part of the treaty which the projected railroad was thought by the Government of the United States to contravene.

The Minister's reply, dated January 14, 1920, referred the Secretary to the Panama Railroad Company's concession and to Articles VIII and XXII of the Canal Treaty.

STATEMENT OF PANAMA'S INTERPRETATION OF RAILROAD MONOPOLY RIGHTS

On July 10, 1920, the Acting Secretary of Foreign Affairs replied in a note which gave a complete exposition of the contentions of the

³¹ *Foreign Relations*, 1917, p. 1183.

³² Not printed.

Government of Panama. The essential parts of the Acting Secretary's note were:

"I note that the objection which your Government makes to the said concession (i. e., the Hyatt concession—A. D.) is based on the privilege given to the Panama Railroad Company by the contracts celebrated between said Company and the Republic of New Granada in 1850 and 1867, which were confirmed in subsequent modifications thereof.

I suppose that that objection has in view specially Article 2 of the contract celebrated July 5, 1867

If the foregoing disposition (Article 2—A. D.) be considered by itself, there would not be any doubt that the objection of the Panama Railroad Company is in conformity with the agreement. Nevertheless, for the proper interpretation of a contract it is necessary to take account of all its clauses in order to make them harmonize. Therefore, in my opinion, Article 5 of the same contract modifies in a substantial manner the extent of what is established in Article 2

Taking together, then, the two dispositions transcribed, (Articles 2 and 5—A. D.) it is clearly seen that the obligation which Colombia imposed on itself (which has passed to Panama) consists of not constructing or permitting 'the construction of any kind of roads' across the Isthmus of Panama.

That this is the correct interpretation of the agreement is shown, furthermore, by the fact that the 'Panama Railroad Company' did not oppose the construction of the urban railroad between Panama and Balboa, Canal Zone, and between Panama and Las Sabanas.

On the other hand, in the Canal Treaty there are various stipulations which show, if said treaty be interpreted in a spirit of equity, that your Government obligated itself to subrogate the rights and obligations contained in the agreements with the Panama Railroad Company, as they were modified by the said treaty. Article V of that treaty provides that the United States has only the monopoly of the construction of any system of communications across the Isthmus, 'between the Caribbean Sea and the Pacific Ocean.' According to this, the United States could not oppose itself to the construction of a railroad between Boqueron and the Atlantic coast."

CONTENTIONS OF THE UNITED STATES

On March 3, 1921, the Minister answered the Foreign Office in a note, the vital portions of which were as follows:

"Even a cursory reading of Articles II and V of the Railroad Company's concession indicates that Article II grants the Railroad Company the exclusive right of building, owning and operating railroad lines on the Isthmus of Panama, which phrase comprises the whole of what is now the Republic of Panama, excepting the Canal Zone. The monopoly is absolute and includes the building, owning and operating of railroads wholly or partially crossing the Isthmus or running at any angle from a direction taken by an ocean to ocean railroad. On the other hand, Article V of the concession relates exclusively to wagon, cart, or carriage roads,—roads for wheeled vehicles, in general,—and whereunder there is

road Company the exclusive right to construct such a road from ocean to ocean on the Isthmus of Panama; the grant under this article of the concession, however, distinctly stipulates that such exclusive right to build highways across the Isthmus from ocean to ocean does not prevent the construction of wagon roads by the grantor or some other person or company in a direction other than across the Isthmus from ocean to ocean.

The two Articles quoted by the Foreign Office for Panama cover distinct matters, and the provisions of one of said Articles, it is represented, can not and does not modify or limit the provisions of the other. The fact that Article V of the concession reserves to the Panaman Government the right to itself to build and the power to grant to another person or company the right to build wagon roads in any direction distinct from that which would be followed by a highway running across the Isthmus from ocean to ocean does not justify, we believe, Your Excellency's Office in its argument that such reservations justified the Panaman Government in having granted to Mr. Hyatt the right to build a railroad from the headwaters of the Boqueron River to the Atlantic coast.

The second point raised in the note from Your Excellency's Office is that by inference the Panama Railroad has previously accepted the interpretation placed by the Panama Foreign Office on Articles II and V of the concession as the correct interpretation of those Articles, for the reason that the Panama Railroad Company did not oppose the construction of the Panama Tramway Company's line from the City of Panama to Balboa and to Las Sabanas.

The Panama Tramways Company is operating a street car system in the City of Panama under a concession which was granted that corporation by the Municipality of Panama on June 21, 1911. The system was extended, and now extends into the Canal Zone under authority of a revocable license granted the Tramway by the President of the United States under date of December 16, 1910, or more than six months prior to the date of the Tramway Company's concession from the Municipality of Panama. It might be added that prior to the boundary convention between the United States and Panama of September 2, 1914,³³ more than one-half of the Tramway Company's line of railroad was within the Canal Zone. The United States was the sovereign within the Canal Zone and also owned all shares of stock of the Panama Railroad Company, which facts were known to the Republic of Panama. No other inference can be drawn from the known relationship between the United States and the Panama Railroad Company and the fact that the Tramway Company had already been granted the aforementioned license by the United States at the time the Tramway Company obtained its concession from the Municipality of Panama than that the Panama Railroad Company had given its tacit consent to the granting by the Municipality of Panama of the aforementioned concession to the Tramway Company. The view of Your Excellency's Office, as expressed in said note, can not be accepted by my Government, as justified.

The third point raised by Your Excellency's Office is that Article V of the Treaty between the United States and Panama of November

³³ Convention between the United States and Panama defining the boundary line of the Panama Canal, signed Sept. 2, 1914, *Foreign Relations*, 1915, p. 1123.

18, 1903, if fairly interpreted, indicates that it was intended to subrogate to the United States all the concessionary rights and obligations obtained by the Panama Railroad Company under its concession from Colombia and that under the provisions of Article V even the United States itself could not protest against the granting by the Panaman Government to Mr. Hyatt of the right to construct a railroad running only part way across the Isthmus. . . .

The argument here advanced by Your Excellency's Office again is not well founded, we contend. The United States by virtue of the treaty was not subrogated to all the concessionary rights of the Panama Railroad Company on the other hand, Articles VIII and XXII of the Treaty subrogate to the United States any property rights in the Panama Railroad Company which the Republic of Panama theretofore had or would in the future acquire under the terms of the Railroad Company's concession from the Republic of Panama. The concessionary rights of the Panama Railroad Company were in no manner affected by the Treaty between the United States and Panama except to the extent that Article V granted to the United States the exclusive right to construct, operate, and maintain a railroad across the territory of the Republic of Panama from ocean to ocean. Article II of the Railroad Company's concession had previously granted to the Panama Railroad Company the same exclusive right and to which extent there is seemingly a conflict between the rights of the United States under its Treaty with Panama and the rights of the Panama Railroad Company under Article II of its concession. The interests of the United States and of the Panama Railroad Company being identical, neither our Government or the railroad company nor the Panaman Government is or can be prejudiced by such seeming conflict. The grant to the United States under Article V of the Treaty in no way limits the Railroad Company's right, acquired by virtue of Article II of its concession from Colombia, to insist upon being protected by the Panaman Government against the building by the Panaman Government, or the building by any other person or company, by any title whatever, of any other railroad on the Isthmus of Panama, excepting from the right to such insistence for protection, the grant to the United States by Panama of the exclusive right under Article V of the Treaty, to build a railroad across the Isthmus from ocean to ocean. . . ."

No answer to the note of March 3, 1921, appears to have been received. Construction of the railroad was not, however, undertaken.

HURTADO CONCESSION

On September 15, 1922, the Panaman Government granted Mr. Enrique L. Hurtado a concession giving him the right to construct a railroad from Calidonia Bay to the Chuquenaque River. The concession was amended on February 17, 1923, by the addition of a provision concerning the rights of the United States as follows:

"There are excepted the rights arising by concession to the Panama Railroad Company in Colombian times and recognized by the Republic of Panama."

The effect of this provision was to put the concessionary in the position of having received notice of the rights of the United States. It did not, however, absolve the Panaman Government from the duty of consulting with the proper authorities of the United States before granting such a concession.

Acting under the instructions of the Department, the Minister, in a note dated February 18, 1924, pointed out that the Government of Panama had entered into the contract without first consulting the Government of the United States and referred to the position maintained by the United States that no contract providing for the construction of a railroad in Panama should be concluded by the Panaman Government without first submitting the proposition to the Government of the United States. No answer to this note was found in the files of the Legation. No railroad construction has been carried out under the concession.

CONCESSION OF THE TONOSÍ FRUIT COMPANY

EXISTING RAILROADS NOT DISCUSSED THROUGH DIPLOMATIC CHANNELS

Several small plantation railway systems existing in Panama, including those of the United Fruit Company in Bocas del Toro, the Henriquez plantation in Cocolé and the San Blas Development Company at Puerto Nicuesa do not appear to have ever been made the subject of diplomatic enquiry.

819.6156 T 61/11 : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, June 3, 1927—2 p. m.

42. Your despatch 1413, May 14. In reply to Government's note you may inform Secretary of Foreign Affairs that the position of the United States has not in any way changed since the presentation of the Legation's note of March 3, 1921.

KELLOGG

819.6156 T 61/13 : Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, August 6, 1927—2 p. m.

[Received 7 p. m.]

78. Legation's telegrams of February 12, 11 a. m. and February 17, 10 a. m. The Chiriqui Land Company, a subsidiary of the United Fruit Company, has been authorized by a contract with the Government of Panama, approved July 19th, to construct railroads and estab-

lish radio, telegraph, and telephone stations in Chiriqui Province. Neither the Governor of the Panama Canal nor I can perceive any objection to the construction of this railway. Nevertheless, it is my opinion that notes similar to the ones presented relative to similar authorizations in the Tonosí Fruit Company contract should be presented. I await instructions. According to local press reports a concession has been awarded to Enoch I. Hooper to construct a bamboo railroad having its terminus on Lake Gatun. The Governor of the Panama Canal is not yet prepared to express an opinion on the Hooper contract.

SOUTH

819.6156 T 61/13: Telegram

The Secretary of State to the Minister in Panama (South)

[Paraphrase]

WASHINGTON, August 10, 1927—3 p. m.

52. Legation's telegram number 78, August 6, 2 p. m. As no reply to your note regarding the Tonosí wireless concession appears to have been received, you should see the President and ask him when a reply may be expected. You should make it plain that the Department expects the reply will be favorable.

When you have received assurances that the Government of Panama shares the views of the Department as to the establishment of radio stations and the construction of railroads in Panama you may inform the President orally that the Department is not disposed to object to the contract between the Government of Panama and the Chiriqui Land Company, but that the position of the Department with regard to the question of radio and railroads remains as expressed to the Government of Panama in former communications.

KELLOGG

819.6156 T 61/14: Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

PANAMA, August 12, 1927—5 p. m.

[Received 9 p. m.]

79. Department's telegram number 52, August 10, 3 p. m. As the Government of Panama has already expressed its disagreement with the views of the Department relative to railroad construction (see despatch No. 1413, May 14), I am withholding action upon paragraph 2 pending further instructions.

SOUTH

819.6156 T 61/14: Telegram

The Secretary of State to the Minister in Panama (South)

[Paraphrase]

WASHINGTON, August 16, 1927—3 p. m.

55. Legation's telegram No. 79, August 12, 5 p. m. The Department presumes that you have carried out its instructions as set forth in its telegram No. 42, of June 3, 2 p. m. It does not, therefore, feel that any useful purpose will be served by presenting another note at this time refuting the position of the Government of Panama with regard to railroad construction in Panama. You may, however, again inform the President of Panama that the failure of the United States to protest against the contract between the Government of Panama and the Chiriqui Land Company does not alter its position with regard to the question of railroads and radio as expressed to the Government of Panama in former communications.

KELLOGG

PROTEST BY PANAMA AGAINST DIRECT NEGOTIATIONS BETWEEN CUBA AND THE AUTHORITIES OF THE PANAMA CANAL IN AN EXTRADITION CASE

211f.37 C 88/1

The Panaman Minister (Alfaro) to the Secretary of State

[Translation]

[No.] D-145

WASHINGTON, May 3, 1927.

MR. SECRETARY: Through a note dated March 14 last the Minister of the Republic of Cuba in Panama applied to the Government of Panama for the provisional detention of Luis Calcaño Crossa charged with the offence of obtaining money by false pretences in the sum of \$20,000 in the city of Habana to the detriment of the branch of the National City Bank of New York. Crossa was reported to be bound for the port of Cristobal where he was to land on the 16th of the said month as a passenger on the steamship *Atenas*.

The Department of Foreign Relations of Panama entertained the application of the diplomatic representative of Cuba, took legal action thereon, and in a note asked the Canal Zone authorities for the co-operation of their police in effecting the arrest of the fugitive and eventually delivering him to the Panaman police in accordance with the provisions of Article XVI of the treaty of November 18, 1903.⁸⁴ The Executive Secretary of the Canal Zone was also informed that the fugitive was not one of those persons permitted to immigrate and

⁸⁴ *Foreign Relations*, 1904, p. 543.

who under Article XII have free access to the lands and workshops of the Canal and other auxiliary works, and therefore was under the control of the Government of Panama as regards his entrance into the territory of the Republic.

The Cuban Minister was informed that the necessary steps had been taken in accordance with his request to effect the provisional detention of the fugitive.

The Executive Secretary of the Canal Zone replied to the Government of Panama stating that by virtue of a cablegram from the Cuban Secretary of State, Señor Rafael Martines Ortiz, requesting that Crossa be detained, Crossa had been arrested. Later the Cuban Minister in Panama made a formal requisition to the authorities of the Canal Zone for the extradition of the fugitive, but the judicial authorities of the Zone did not take action thereon because the Cuban accused waived the formalities of extradition and was, in consequence, delivered on a warrant of the District Judge of the Canal Zone to the agents of the judicial police of Habana.

It appears, then, that in the case under consideration the Canal Zone authorities entered into direct negotiations with the Government of the Republic of Cuba, in the form that is customary with entities in their international relations.

Those facts have given occasion for the Government of Panama to present a formal protest to the Government of the Republic of Cuba which by its conduct has encroached upon the sovereignty of Panama and its international individuality.

My Government adheres to the opinions set forth in the notes which I had the honor to address to the Department of State under dates of May 24, June 25 and September 6, 1923,³⁵ and in consequence has instructed me to present to the Government of Your Excellency, as I do by this note, the most respectful, but at the same time the most formal and energetic protest, against the manner in which the extradition of the fugitive from the justice of Cuba, Luis Calcaño Crossa, was effected.

I renew [etc.]

RICARDO J. ALFARO

2111.37 C 88/1

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, May 13, 1927.

SIR: I have the honor to acknowledge the receipt of your note of May 3, 1927, in which you advise me of the action taken by the authorities of the Panama Canal upon an application made by the Government of Cuba for the provisional arrest and detention of one

³⁵ Notes not printed.

Luis Calcaño Crossa, with a view to his extradition. You add that your Government has presented a formal protest to the Government of the Republic of Cuba on the ground that its conduct in this matter "has encroached upon the sovereignty of Panama and its international individuality". Furthermore, you state that your Government adheres to the opinion set forth in your notes to this Department under dates of May 24, June 25 and September 6, 1923, in regard to proceedings taken upon the request of the Government of Chile for the extradition from the Canal Zone of persons charged with murder in Chile, and that you have consequently been instructed to enter a protest with this Department against the proceedings in the instant case.

In reply I beg to state that this Government adheres to the views expressed in its notes to you of June 12, July 7, and October 13, 1923,⁸⁸ which were sent in reply to the notes above mentioned.

Accept [etc.]

FRANK B. KELLOGG

⁸⁸ *Foreign Relations*, 1923, vol. II, pp. 704-710.

PARAGUAY

CONCESSION BY PARAGUAY TO THE ASUNCIÓN PORT CONCESSION CORPORATION¹

834.156/240

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 234

ASUNCIÓN, January 28, 1927.

[Received March 3.]

SIR: With reference to the Asunción Port Concession, I have the honor to report that, during the week of January 10th, I had a long conversation with the President of the Republic in this regard.

At that time he definitely promised to give the matter immediate attention, and the following week was ready to go into the subject.

Therefore, in response to my telegraphic advice, Mr. H. C. Mitchell, the Asunción Port Concession Corporation's representative in Buenos Aires, arrived here on Monday, January 24th, and an audience with the President was immediately arranged for him. The conferences during the week have resulted in absolute conformity and the assurance that the matter will be presented at the opening of Congress, with a request for quick action.

Congress is now sitting in special session, but it was deemed unwise to introduce the measure before it, inasmuch as the session was called primarily for the enactment of a new electoral law and the session is to close on the 31st of January. Sufficient time was therefore not available and, rather than have the matter held without action, the President advised that it be withheld for the regular session and its prompt introduction at that time, with his endorsement.

The Minister of Hacienda, in whose department the matter originates, is now in Buenos Aires, but upon his return it is the intention of the President to place the matter before the entire Cabinet and there secure its full approval, which should make for prompt action through the Congress. The President is very desirous that the work upon the project be commenced as quickly as possible and his support assures its definite success.

Mr. Mitchell is thoroughly satisfied and I am happy to report that this vexatious problem is agreeably arranged.

I have [etc.]

GEO. L. KREECK

¹ For previous correspondence, see *Foreign Relations*, 1921, vol. II, pp. 623 ff.

834.156/243

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 421

ASUNCIÓN, October 21, 1927.

[Received November 25.]

SIR: With reference to the Asunción Port Concession, I have the honor to report that, on October 20th, the President signed the law, passed at the last session of Congress, granting a concession to the Asunción Port Concession Corporation.

The Corporation's representative, Mr. H. C. Mitchell, is obtaining the data necessary for the drafting of plans and is attending to the preliminaries for an early construction.

There is a general feeling of optimism and the desire for American capital to undertake the construction of a water works and sewage system, and needed railway extensions.

I have [etc.]

GEO. L. KREECK

BOUNDARY DISPUTE WITH BOLIVIA

(See volume I, pages 315 ff.)

PERSIA

APPOINTMENT AND SERVICES OF AN AMERICAN MISSION TO ASSIST IN THE ADMINISTRATION OF THE FINANCES OF PERSIA¹

891.51A/15

*The Assistant Secretary of State (Dearing) to the Under Secretary
of State (Fletcher)*

[WASHINGTON,] February 11, 1922.

MR. FLETCHER: The Secretary called me in this morning to say that he had just had a talk with the British Ambassador with regard to the Persian oil situation.² The Ambassador had just received from Lord Curzon³ certain instructions in the matter. The Secretary informed him that he had not followed the matter closely but knew the general tenor of the case. Lord Curzon regards Persia as in a state of financial chaos and says that the country must have money. This being the situation, it is desirable that Persia should have good financial advice. Lord Curzon would have no objection whatever to an American as financial adviser to Persia and thinks that this would, indeed, probably be the best possible solution.

The Secretary thought that if we could lay our hands on a first-rate man it would be an excellent opportunity of which we ought to take advantage, and expressed his gratification at the turn events had taken. It seems to show that the British are sincerely cooperating. The Secretary understood from the Ambassador that Lord Curzon thought the negotiations between the oil companies were on the point of satisfactory completion and that a mutually satisfactory arrangement would be consummated.

I told the Secretary of the difficulty with regard to the possibility of the Standard Oil falling out and leaving the whole matter in the hands of the Anglo-Persian after one year but told him that it was our opinion that this point could probably be taken care of.

DEARING

891.51A/45

*The British Embassy to the Department of State**

AIDE-MÉMOIRE

With reference to the conversation between the Secretary of State and His Britannic Majesty's Ambassador on February 11th last, the

¹ For previous correspondence, see *Foreign Relations*, 1921, vol. II, pp. 633 ff.

² For papers relating to this subject, see S. Doc. 97, 68th Cong., 1st sess.

³ British Secretary of State for Foreign Affairs.

⁴ Left with the Secretary of State by the British Ambassador, Apr. 20, 1922.

attached printed memorandum is communicated in order to make clear the views of His Majesty's Government on the present situation in Persia and the question of the appointment of American advisers for that country.

It will be noticed that, in referring to the Anglo Persian Oil Company's concessions, the Khostaria concession which is claimed by that Company is left out of account.⁵

[Enclosure—Extract]

The British Foreign Office to the Department of State

MEMORANDUM

1. The British Government are mainly concerned in the maintenance of Persia's independence and integrity, and are prepared to co-operate in any well-planned efforts to sustain and revive her national existence.

2. The development of Persian resources and the revival of Persian trade by any legitimate means are equally an object of interest to Great Britain.

3. His Majesty's Government have paramount interests in Southern Persia and the Persian Gulf which impel them to take a special interest in those regions.

4. His Majesty's Treasury cannot lose sight of the indebtedness of Persia to Great Britain, and must look to the regular payment of interest and sinking fund on these debts out of Persia's available resources, some of which are already pledged to her.

5. His Majesty's Government, having tried unsuccessfully to assist Persia to improve her internal administration and to introduce sound financial methods, are prepared to extend a loyal assistance to the United States Government if the latter decide, after full consideration, to undertake the task. The question by whom Persia is to be regenerated is of vastly less importance than that her regeneration should take place. A better chance of effecting this end can hardly be imagined than that a great and friendly and disinterested Power like the United States should be willing to enter the field. Some things the United States Government will do best by itself. In

⁵ The paragraph referred to is not included in the extract of the memorandum printed below; it reads as follows:

"In Northern Persia, namely the provinces of Gilan, Mazanderan, Khorasan, Azerbaidjan and Asterabad, to which the Anglo-Persian Oil Company's concession does not extend, a combined Anglo-American group is at present negotiating on the basis of a joint exploitation of the oil deposits which are known to exist in certain regions within those provinces. His Majesty's Government are watching these negotiations with sympathetic interest, and earnestly hope that a satisfactory understanding will be reached by the two groups interested in the enterprise."

others it may profit by the co-operation and support of those who have been so long on the ground. From this point of view His Majesty's Government will give to any American officials who may be chosen by the United States Government their fullest diplomatic support at Tehran in the hope that by the united action of the British and United States Governments and by the frankest exchange of views between them a real improvement in Persia's internal administration may result.

6. As regards foreign commercial enterprise in Persia, His Majesty's Government adhere without qualification to the principle of the "open door."

His Majesty's Government have placed on record the above considerations, and now submit them to the United States Government in the assured conviction that Persia affords a field where the two great English-speaking nations may, by working together, bring about results that will enure both to the advantage of the Persian people and to the peace and prosperity of the Eastern world.

C[URZON] OF K[EDLESTON]

[LONDON,] *March 1, 1922.*

891.51A/110

The Chief of the Division of Near Eastern Affairs (Dulles) to the Assistant Secretary of State (Harrison)

[WASHINGTON,] *May 1, 1922.*

MR. HARRISON: The Persian Minister called and left some further data regarding the political situation in Persia as given in telegrams he had received from his Government during the past few months. . . .

The Persian Minister asked me whether there was anything further for him to do to hasten the Department's decision regarding advisers. I replied that I felt that he had done everything that was possible and that the only thing for him to do now was to wait until the Secretary had a chance to fully consider the question. I gave the Minister to understand quite clearly that in my opinion the Department would not officially designate an adviser but that we would in all probability follow the precedent which had been set in the case of Mr. Shuster* namely—to put him informally into contact with one or more men who might appear to us to be suitable and allow him or his Government to make the final selection.

The Minister seemed rather disappointed at this and indicated that when Mr. Fletcher had held up the whole negotiations last fall, he had indicated to the Minister orally that it would be much better

* W. Morgan Shuster, Treasurer General and Financial Adviser of the Persian Government from May 1911 to Jan. 1912.

for him to wait because the Department would be able to take a more active part in the selection of advisers and assume a greater degree of responsibility if the Persian Government would wait for Kornfeld's arrival and the receipt of his report. The Minister said that at that time he was so disappointed at this turn of events that he had advocated to his Government that he be authorized to choose the American advisers himself. His Government had replied that he should take Mr. Fletcher's advice and wait because the government desired men who would go to Persia with the full prestige of having been designated by the State Department.

I said that while I thought it quite probable that the Department could be of help to him in the selection of an Adviser that I did not feel that the Department could assume the responsibility of insisting that the Persian Government should take any one man rather than another but that I hoped a way could be found to cooperate with the Persian Minister in such a way as to leave him a certain amount of freedom in the selection of an Adviser but at the same time to make it quite clear that the person whom the Persian Government might choose would have the full confidence of the State Department.

The Persian Minister referred to the fact that his Government desired Agricultural as well as a Mining expert in addition to the Financial experts and he asked us to help in the selection of these Agricultural and Mining experts.

A. W. DULLES

891.01A/33: Telegram

The Secretary of State to the Minister in Persia (Kornfeld)

WASHINGTON, May 9, 1922—7 p. m.

33. You may inform the Minister of Foreign Affairs that Department is giving careful consideration to the Persian Government's request for assistance in securing appropriate persons to act as advisers for financial and other matters as indicated in your 45 of April 25, 12 midnight.⁷ Persian Minister here has been urgently pressing Department for decision. You will be promptly advised when any action is taken.

The Department is not of the opinion that this Government should assume the responsibility for the actual appointment of a financial adviser for Persia but it will assist the Persian Minister in making an appropriate choice leaving the formal appointment to the Persian Government as it must be clearly understood that the American adviser is the employee of the Persian Government and in no way an official of the United States.

HUGHES

⁷ Not printed.

891.51A/21

The Secretary of State to the Persian Minister (Alaï)

WASHINGTON, June 22, 1922.

SIR: In reply to your note of June 16, 1922,^s communicating the desire of your Government to employ American citizens as advisers in various branches of the Persian Administration and indicating that the appointment of a Chief Financial Adviser was particularly pressing, I have the honor to state that after careful consideration the Department suggests the name of Dr. A. C. Millspaugh, Economic Adviser of this Department as a person with whom you might desire to communicate in regard to this matter.

In case, before making a choice, your Government should desire that further names of persons available for such employment should be submitted, the Department is prepared to do so.

As it seems probable that the person whom you may select as financial adviser will desire to be consulted in regard to his subordinates I have refrained from suggesting further names for such positions.

In the event that your Government should decide to communicate with Dr. Millspaugh and that an agreement should subsequently be reached with him to assume the duties of Financial Adviser to Persia, I desire that it be made quite clear that Dr. Millspaugh undertakes this work in a purely private capacity, and that all connection with the Department of State will cease immediately upon his entering the employ of the Persian Government. In acceding to the request of the Persian Government for the suggestion of an American citizen as Chief Financial Adviser to Persia my Government assumes no responsibility for any action which the Financial Adviser may take as an official in the employ of the Persian Government.

Accept [etc.]

CHARLES E. HUGHES

891.51A/43

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Dulles)*

[WASHINGTON,] June 26, 1922.

The Persian Minister called Friday afternoon and received the Secretary's note communicating the name of Dr. A. C. Millspaugh as a possible candidate for the post of Financial Adviser to the Persian Government. The Minister's first reaction appeared to me

^s Not printed.

to be disappointment that the Department had seen fit to make such ample reservations that no responsibility was assumed by the Government in indicating Dr. Millspaugh's name. He remarked that the Secretary's note contained more explicit reservations than in the case of Secretary Knox's note regarding Mr. Shuster.⁹

The Persian Minister seemed to be pleased at the suggestion of Dr. Millspaugh, remarking that his name had also occurred to him. He indicated that he would immediately communicate the Secretary's note to his Government. The Minister asked whether Millspaugh had had any foreign experience and at his request I left with him a short biography of Dr. Millspaugh.

On Saturday, June 24th, following the Secretary's instructions, I spoke with Mr. Craigie of the British Embassy regarding the Persian Advisership matter. I referred to the very cordial communication which Sir Auckland Geddes had left with the Secretary in April¹⁰ and read to Mr. Craigie one paragraph of that memorandum in which the British Government had indicated that they would welcome and gladly cooperate with any "American officials" who might be designated to assist the Persian Government. I told Mr. Craigie that the Department had informed the Persian Minister that it would assist him in selecting an American citizen as Financial Adviser but that this did not mean that American officials were being sent or would be sent to Persia. The Department's action in the matter would consist in indicating one or more persons who in the Secretary's opinion were qualified for the Persian position. The actual selection of these men would rest with the Persian Government and it would be for the Persian Government to reach an agreement directly with any American whose services the Persian administration might desire. I added that the Department would assume no responsibility for the actions or the policies of American citizens in the employ of the Persian Government.

I indicated to Mr. Craigie that a communication in this general sense had already been sent to the Persian Minister but did not mention the name of Dr. Millspaugh as having been suggested to the Persian Government.

Mr. Craigie said that the British memorandum regarding Persian advisers was strictly confidential, that in fact they had been instructed to communicate with the Department "in the sense of" the memorandum rather than to communicate the memorandum itself but they had found it so difficult to do this that they had decided to communicate it *in toto*. The Embassy hoped that we would respect its confidential character. Mr. Craigie then expressed his ap-

⁹ *Aide-mémoire* of Nov. 27, 1911, *Foreign Relations*, 1911, p. 683.

¹⁰ *Ante*, p. 523.

preciation of the information he had been given in regard to the Department's attitude towards advisers for Persia.

A. W. DULLES

891.51A/45

The Secretary of State to the British Ambassador (Geddes)

MEMORANDUM

On April 20th last His Britannic Majesty's Ambassador called upon the Secretary of State and, referring to an earlier conversation, left in his hands an *Aide Memoire* with an accompanying memorandum, which set forth the views of His Majesty's Government with respect to the existing situation in Persia and the prospective employment of American advisers in the financial administration of that country.

This Government is gratified at the assurances conveyed by this communication in which it is indicated that the question by whom Persia is to be regenerated is of vastly less importance than that her regeneration should take place, that as regards foreign commercial enterprise in Persia the principle of the open door is approved without qualification, and that any American officials chosen by this Government for service in Persia would receive the Diplomatic support of His Britannic Majesty's Government at Teheran.

Fully appreciating this cordial expression of the views of His Britannic Majesty's Government, the Secretary of State believes it is opportune briefly to indicate the attitude of this Government towards the employment of its nationals in the financial administration of Persia, in order to avoid the possible misapprehension that responsibility for Persian financial reform has been undertaken.

Pursuant to a request of the Persian Government, received through the Persian Minister in this city, Dr. Arthur C. Millspaugh, Economic Adviser of the Department of State, has been suggested as a person competent to act as Financial Adviser to the Persian Government. It is understood that this name was submitted by the Persian Ministry to the Persian Mejliss and was subsequently approved. Dr. Millspaugh, with a number of American assistants, will shortly leave for Persia in order to assume his new duties.

In the communication to the Persian Minister suggesting the name of Dr. Millspaugh it was stated that his official connection with the Department of State would cease immediately upon his entering the service of the Persian Government, and that this Government assumed no responsibility for any action of the Financial Adviser as an official in the employ of the Persian Administration.

It will be noted, therefore, that it is not proposed that American officials should proceed to Persia and that this Government has lim-

ited its action and its responsibility to extending assistance to Persia in the choice of a qualified American citizen for the difficult task of Persian financial reform.

WASHINGTON, August 22, 1922.

891.51A/46

The Acting Secretary of State to the Persian Minister (Alaï)

WASHINGTON, August 26, 1922.

SIR: In acknowledging the receipt of your note of August 15th, 1922,¹² courteously submitting to the Department copies in duplicate of the contract signed by Dr. A. C. Millspaugh as Administrator General of the Finances of Persia, the Department takes occasion to communicate to you the names of a number of Americans who are recommended by Dr. Millspaugh as suitable persons for the various positions in the Persian Financial Administration which you have indicated in previous correspondence:

Expert for direct taxation
Expert for indirect taxation
Expert for accounting and auditing
Expert for banking and currency
Provincial directors of finance

Mr. C. C. Early
Mr. Charles I. McCaskey
Mr. Frank H. Gore
Mr. Ernest L. Bogart
Mr. Adam R. Gard
Capt. D. W. MacCormack
Capt. Joel R. Moore
Mr. T. C. Mitchell

I am also enclosing for your information a brief statement prepared by Dr. Millspaugh¹² describing the work and qualifications of the persons whose names have been given above. You will appreciate that in submitting this list the Department does not assume responsibility for the persons suggested by Dr. Millspaugh.

Accept [etc.]

WILLIAM PHILLIPS

891.51A/45: Telegram

The Secretary of State to the Minister in Persia (Kornfeld)

WASHINGTON, November 14, 1922—7 p. m.

54. Department's instruction 242 August 31.¹² Doctor A. C. Millspaugh Administrator General of Finances with 10 American Assistants is now en route to Persia and Doctor Edward W. Ryan is sailing shortly as Municipal expert for the city of Teheran.

Although the Department has assisted the Persian Legation in the selection of these men it must be clearly understood that it can

¹² Not printed.

assume no responsibility for their activities while in the employ of the Persian Government. The Department however takes a sympathetic interest in their work and hopes they will succeed in rendering Persia the service desired of them.

You will of course extend every protection and assistance to which they may be entitled as American citizens and if requested by Dr. Millspaugh you may transmit through the Legation written or cable communications addressed to the Department of State or officials of the Department.

Advise Department of arrival of advisors and report fully at later date in regard to the progress of their work.

HUGHES

891.51A/173 : Telegram

*The Administrator General of the Finances of Persia (Millspaugh)
to the Secretary of State*

TEHERAN [undated].

[Received July 26, 1924—3:27 a. m.]

American Financial Mission have asked settlement in view of violation of contracts.

MILLSPAUGH

891.51A/175 : Telegram

The Minister in Persia (Kornfeld) to the Secretary of State

TEHERAN, July 28, 1924—10 a. m.

[Received 11:40 a. m.]

67. Department's telegram 36, July 24, 6 p. m.¹⁸ Millspaugh advised me July 24 that he sent protest July 17. He alleges following violations of contract: Governmental expenditures of public funds without his approval, taking decisions on financial questions without consulting him, failure to give him opportunity of attending meetings of Council of Ministers when discussing financial questions, ignoring his recommendations regarding financial personnel over which he claims complete power, interference with his administration, et cetera.

Millspaugh maintains "when the Administrator General of Finances holds that an order on [or] an instruction of Government or of Minister of Finance is unlawful or contrary to his contract or the contracts of the other American administrators he will not obey. Within the limits of the jurisdiction prescribed in his contract he has full right to use his judgment to make any decision which he considers correct." Millspaugh demands that he be permitted to

¹⁸ Not printed.

do work without interference or obstruction, direct or indirect, not to be pressed to take action for special, personal, or political advantage of anyone, be permitted to exercise powers clearly given to them in their contracts and all violations shall immediately cease. If the Government does not accept these views mission requests to be advised immediately in order to discuss settlement of their contracts.

KORNFELD

891.51A/176 : Telegram

The Minister in Persia (Kornfeld) to the Secretary of State

TEHERAN, July 28, 1924—5 p. m.

[Received 5:40 p. m.]

68. Legation's 67, July 28, 10 a. m. Millspaugh transmits to the Legation under date of July 26, copy of communication dated July 24, addressed to the Persian Government, requesting it to arrange for a settlement with the American Financial Commission without delay.

KORNFELD

891.51A/176 : Telegram

The Acting Secretary of State to the Minister in Persia (Kornfeld)

[Paraphrase]

WASHINGTON, July 30, 1924—7 p. m.

48. Your 67, July 28, 10 a. m.; 68, July 28, 5 p. m.

1. It is regarded by the Department as unfortunate that circumstances have disposed Millspaugh to demand termination of contracts of Financial Advisers. Department has no complete knowledge of the views of the Persian Ministry and of the course it has taken, or of the attitude and wishes of the Administrator General, but Department views with regret the present crisis. It will be clear to you that for the United States and for the Legation it is of paramount importance that adjustment regarding murder of Vice Consul Imbrie¹⁴ should be reached without delay. It is not the wish of the Department that the raising of any other question should become an obstacle to that adjustment.

2. It is clearly understood here that members of Financial Mission are in the service of Persian Government, and that if stipulations of their contracts are respected there is no proper ground for diplomatic interference. But if the Persian Government has not given pledges for the future as was asked by the American Mission, or if it

¹⁴ Robert Imbrie, American vice consul at Teheran, murdered July 18, 1924. see *Foreign Relations*, 1924, vol. II, p. 539; also H. Rept. 985, 69th Cong., 1st sess.

is about to adopt a course which may cause resignation of American officials, the Department believes that, should you approve and after you have consulted the Administrator General, you may with propriety, in fairness and candor to the Persian Government, make informal representations that if Americans should relinquish posts in consequence of evident intentions of Persian Government, the effect upon sentiment in the United States would be unfortunate, and coming so soon after the murder of Imbrie it might unhappily be regarded in America as evidence of Persia's intentions toward the United States and its citizens.

Cable report.

GREW

891.51A/180 : Telegram

*The Secretary of Legation and Acting Consul at Teheran (Murray)
to the Secretary of State*

TEHERAN, July 31, 1924—noon.

[Received July 31—9:25 a. m.]

10. In conference with the Prime Minister yesterday Millspaugh, despite promises of former, insist[ed] upon settlement of contracts. It is latter's idea that even if mission remains, present contracts which have proved ineffectual must be canceled and new ones drawn with radical changes including practically dictatorial powers in matters concerning budget and guarantee of support of Army. Administrator's discouragement has been deepened by Imbrie killing and he has informed Prime Minister that funds must be laid aside to meet indemnity which it is expected the United States will demand and which he hopes will be determined without consideration of possible effect on mission. . . .

Ulen Company representative because of Imbrie killing refused to submit railway proposal at the expiration of option on July 27th and requested extension of 60 days which the Prime Minister reluctantly promised.

MURRAY

891.51A/182 : Telegram

The Minister in Persia (Kornfeld) to the Secretary of State

[Paraphrase]

TEHERAN, August 6, 1924—3 p. m.

[Received 3:15 p. m.]

84. Department's 48, July 30, 7 p. m. I have learned from the American Administrator General that he has been to see the Prime Minister who urgently pressed him not to leave Persia. But Admin-

istrator General is of opinion that it is preferable to terminate the contract now in force and that afterwards he could stipulate for undivided power over finances if he is desired to stay on.

KORNFELD

891.51A/198

The Chargé in Persia (Murray) to the Secretary of State

No. 637

TEHERAN, September 7, 1924.

[Received October 9.]

SIR: Referring to the Department's telegrams Nos. 36 and 48, dated July 24 and July 30, respectively,¹⁵ the Legation's telegrams Nos. 67, 68, and 84 of July 28, 10 a. m., July 28, 5 p. m., and August 6, respectively, the Consulate's telegram No. 10 of July 31, and the Legation's despatches, Nos. 604 and 623, dated July 30 and August 26, respectively,¹⁶ all referring to the difficulties which have recently arisen in the position of the American Financial Mission in Persia, and which have culminated in a demand, on the part of the members of the mission, for a cancellation of their contracts, I have the honor to inform the Department that I have had two conferences with Dr. Millspaugh on July 31 and September 5, respectively, and one with Zoka-ol-Molk, the present Minister of Finance on September 6, during which the entire matter and the advisers' demands and the attitude of the Persian Government was fully discussed.

In my talk with Dr. Millspaugh on July 30, he discussed freely the contents of what has been called the advisers' "ultimata" addressed to the Persian Government on 26 Saratan (July 17) and 2 Asad (July 24) and transmitted to the Department in the Legation's despatch No. 604 of July 30. Dr. Millspaugh seemed profoundly discouraged over what he considers the systematic opposition during the past six months of the Persian Government to all his efforts to put Persia's financial house in order. Both the Council of Ministers and the Medjliss had evinced an unwillingness to cooperate with him either in the approval or the passage of his financial projects so that he viewed with the utmost pessimism any chance of success for his financial mission in Persia unless their present contracts were cancelled on the basis of repeated violation on the part of the Persian Government and new contracts were submitted to and passed by the Medjliss granting the Administrator General practically dictatorial powers in questions concerning the budget and an absolute guarantee of military support in the collection of the taxes. He felt that any

¹⁵ Former telegram not printed.

¹⁶ Neither despatch printed.

other solution would be merely begging the question and sure to lead eventually to failure.

It may be added that the attitude of the other members of the financial mission was even more uncompromising than that of Dr. Millspaugh, and that they were averse to withdrawing in any degree, however small, from the original demands on the Persian Government that their contracts be terminated.

In the succeeding fortnight the Prime Minister addressed a conciliatory communication to Dr. Millspaugh, dated 15 Asad (August 6) containing rather vague promises of complete cooperation with the American advisers and requesting fuller specifications from the Administrator General as to exact violations of his contract. The latter was at the same time verbally informed by the Persian Government that a commission of Persian notables was to be formed for the consideration of the advisers' complaints and to effect if possible a solution of their difficulties.

I was informed on August 9 by Colonel MacCormack that the commission appointed by the Prime Minister which contained, among others, such prominent men as Moshir-ed-Dowleh and Mostowfi-ol-Mamalek, was doing little to get at the root of the trouble, and that even Moshir-ed-Dowleh had frankly expressed the idea that the Persians in general were averse to the plans of the advisers to reorganize completely the financial system and impose new taxation in order to balance the budget, but that they desired rather to have a mission of "advisers" in the true sense of the word who would "advise" the Persian functionaries as to the proper steps to be taken and back them up in the execution thereof. Colonel MacCormack informed Moshir-ed-Dowleh that if such was their understanding as to the function of the American advisers they had employed the wrong men.

Again on September 5, in a conference with Dr. Millspaugh, he expatiated on the impossibility of continuing further his activity as Administrator General of Finances unless a radical change . . . meanwhile intervened. . . .

. . . In the opinion of the Administrator General, if Persia is to be rescued from her present desperate financial straits, it will be necessary to reduce the budget for the War Ministry one million tomans each year until it has reached the sum of six million tomans which he considers a reasonable sum for the maintenance of an army of 30,000 to 40,000 men.

. . . I was interested to note that the advice of the best friends of the American advisers, namely that of Zoka-ol-Molk, the present Minister

of Finance, and Sardar Moazzam Khorassani, the present Minister of Public Works, had not failed to have effect on Dr. Millspaugh's rather inexorable demand that a cancellation and settlement of his contract should precede any discussion of his further remaining in Persia. He now appears more willing to present his "irreducible minimum" to the Persian Government and to negotiate on a basis thereof. I may state at this point, for the information of the Department, that in my opinion, based on a close observation of the present critical situation, this decision on the part of Dr. Millspaugh is a wise one inasmuch as there are several fundamental reasons, which will be pointed out below, why a persistence on the part of Dr. Millspaugh in his original unbending demands would be unfortunate at the present time.

On the following day, September 6, I requested a conference with the Minister of Finance, Zoka-ol-Molk, which he granted me at six o'clock in the evening. After prefacing his remarks with numerous declarations of friendship and goodwill to the advisers which I believe are borne out by fact, he expressed the hope that Dr. Millspaugh could be made to see the wisdom of a more conciliatory attitude to the Persian Government in the present crisis and pointed out two fundamental principles which must not be lost sight of if this crisis is to be allayed. In the first place he felt that while Dr. Millspaugh is in some degree right in his contentions with regard to the violation of his contract, there was something to be said for the other side; sight must not be lost of the fact that Persia is an oriental country that has been for decades in a mire of financial distress and that too vigorous a remedy for the invalid might prove fatal.

The one absolute necessity at the present time was that Dr. Millspaugh should withdraw from his position that the budget of the War Ministry should be reduced. Unless he could see the wisdom of this concession, all would be lost. While frankly admitting that most fair-minded Persians would agree that the expenditures of the Ministry of War were excessive, and a great burden upon the finances of Persia absorbing as it did almost one-half of her revenues, Persians nevertheless realized the great advantages that had accrued to Persia thru the organization by Sardar Sepah¹⁷ of the present army and the inestimable advantage which this force had been to the financial advisers in backing up their reforms.

He further referred to the difficulties which Shuster had encountered in this regard and the necessity with which he was faced of organizing a Treasury *Gendarmerie* in the country, an act which more than anything else had aroused the antagonism of the Russians which led to his expulsion.

¹⁷ Reza Khan.

He believed that the present armed force in Persia, while it was insufficient to defend the country from invasion, had to its credit remarkable accomplishments in subduing tribes rebellious to the central authorities and in making it possible for a financial mission to function. Without Sardar Sepah, he said, any idea of an American mission in Persia would have been out of the question.

With regard to Dr. Millspaugh's original demand that, before the complete cancellation and settlement of his contract, he could not discuss the matter with the Persian Government, the Minister of Finance made what I consider is a very just observation. In the first place, such an action could not but be regarded as a rather humiliating and high-handed action toward the Persian Government with whom Dr. Millspaugh had voluntarily entered into contractual obligations, and would arouse the suspicion that after such cancellation he would show himself so inflexible that the mission would depart with the entire money settlement for five years in their possession, and secondly, that, given the open opposition of the Russians, the covert opposition of the British, and the general unfriendliness of the Belgians and the French, the concerted action on the part of these Legations, once the contracts had been cancelled, would make any passage by the Medjliss of new contracts an absolute impossibility. In my former conference with Dr. Millspaugh I was gratified to see that he accepted the soundness of the Finance Minister's reasoning.

The second essential point which he emphasized was that Dr. Millspaugh should carefully guard himself from giving any impression to the Medjliss of a desire to dictate the terms of any new rights in his contract which might be agreed upon between the Government and the Financial Mission. This would be a fatal step on the part of the Administrator General. Unusual powers had been granted to Mr. Shuster during his activity in Persia, but these powers had all been voluntarily granted by the Medjliss which was an ardent supporter of Shuster.

I have [etc.]

W[ALLACE] SMITH MURRAY

891.51A/191 : Telegram

The Chargé in Persia (Murray) to the Secretary of State

[Paraphrase]

TEHERAN, September 18, 1924—1 p. m.

[Received 2:38 p. m.]

124. No. 10, July 31 from consulate. In attempt to find way out of impasse in dispute between American mission and Persian

Government, I have urgently advised Millspaugh to give way in his demands (1) that contracts of American officials be terminated and salary advances paid before he will entertain proposals to remain in Persia, (2) that funds assigned out of revenue to Ministry of War be diminished. It is my opinion that to persist in first demand will prejudice chance of keeping mission in Persia or of engaging another, as foreign influences would be sure to make difficulties. To persist in second would bring to an end the cooperation of the Prime Minister and would in consequence destroy any hope of success.

Since Ministry rejected Millspaugh's offers of compromise I suggested attempt to prevail on Prime Minister to exert his influence strongly in Medjliss for passage of fiscal measures which have been pending for over half a year.

Yesterday I sounded Prime Minister on above and was assured of his full cooperation.

MURRAY

891.51A/205

The Chargé in Persia (Murray) to the Secretary of State

No. 669

TEHERAN, October 6, 1924.

[Received November 6.]

SIR: In confirmation of the Legation's telegram No. 127 of September 26, 8 p. m.¹⁸ with regard to the settlement which has been reached between the Persian Government and the American financial advisers, I have the honor to inform the Department that the Prime Minister, Sardar Sepah, would appear to have changed his attitude with regard to the advisers immediately after the interview on September 17 which I had with him, the substance of which was duly transmitted to the Department in the Legation's despatch No. 648 of September 21, 1924.¹⁸

I have been informed by Mirza Reza Khan Afshar, formerly private secretary to Dr. Millspaugh, at present a deputy in the Medjliss, and an intimate friend of the Prime Minister, that as soon as I had left the Prime Minister's house on that day, he was summoned by Sardar Sepah and instructed to make an immediate appointment for a conference with Dr. Millspaugh in order to arrive at some solution of the latter's difficulties.

Three conferences between the two parties were held on September 18, 22 and 25, respectively on the latter of which occasions Sardar Sepah came personally to call for the first time upon Dr. and Mrs. Millspaugh at their home. The intermediary on all these occasions was Reza Khan Afshar who always expressed great friendliness to

¹⁸ Not printed.

the American advisers and a sincere desire to see their differences with the Persian Government settled.

In the last conference, namely on September 24 [25th], at which Dr. Millspaugh persistently stood out for a reduction of the budgets of all Ministries as the only way out of the present financial impasse, the Prime Minister unexpectedly offered to reduce his own budget 200,000 tomans a year which, together with the proportional cut on all other Ministries, will enable Dr. Millspaugh to balance the budget for the present fiscal year.

It may be noted that certain concessions on both sides were made in the question of budget reductions inasmuch as the Administrator General desired to cover the entire million toman deficit, as estimated for the present year, by deducting it *in toto* from the War Minister's budget.

After coming to this agreement, the Administrator General impressed upon the Prime Minister the necessity that the latter sponsor personally the agreement arrived at with regard to ministerial reductions in order to avoid obstructions and delays on the part of these Ministries. This the Prime Minister promised to do and on the next day in a meeting of the Council of Ministers announced the reductions to the various Ministers as a *fait accompli*.

A further important obligation assumed by the Prime Minister at this conference was the guarantee of unlimited support of the Persian army to be afforded the American financial advisers in the collection of taxes. The withdrawal of this support has at various times been used by the Prime Minister in order to bring pressure upon the Administrator General to accede to certain demands of the Government.

The solution of a third important and difficult question was that of the control of the Ministry of Posts and Telegraphs. Inasmuch as this Ministry has, in the last years, had a surplus of 508,000 tomans over its expenses, it has been a hotbed of corruption and intrigue in order to prevent, at all costs, this surplus from reaching the hands of the American advisers. There has been constant friction and disputes between the Administrator General and all Ministers of Posts and Telegraphs appointed since his arrival over the control of that Ministry's finances.

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In the latter mentioned conference between Dr. Millspaugh and the Prime Minister this question was frankly discussed, and Dr. Millspaugh stated frankly that he could no longer tolerate the insubordination of the Ministry in question and, in order to alter the situation prevailing therein, the permanent Under-Secretary, Mokbered-Dowleh, must be dismissed. He presented a demand at the same

time that the Belgian Acting Director of Posts, Mr. Emil Pire, who has always been in close league with Mokber-ed-Dowleh in opposing the American advisers, should not be permitted to return to Persia from Stockholm where he has been attending the conference of the International Postal Union. The Prime Minister concurred in this demand and promised to take action.

With regard to the settlement of the questions raised by the Financial Mission as to the violation of their contracts, Dr. Millspaugh requested the dismissal of the unwieldy commission of fourteen which has been considering the matter but has accomplished nothing, and the appointment of a Commission of three, composed of the present Minister of Finance, Zoka-ol-Molk, the President of the Medjliss, Motamen-ol-Molk, and one deputy.

As the Department was informed in the above-mentioned telegram, Dr. Millspaugh made a substantial concession at this time with regard to the contracts of the advisers, namely, that they would not insist upon an immediate cancellation and settlement before they consented to consider the continuation of their services. This concession on his part was unquestionably a wise one.

It is obvious that the above solution of the advisers' difficulties represents a signal victory for Dr. Millspaugh, and one which will no doubt add much to his prestige in the future. . . .

I have [etc.]

W[ALLACE] SMITH MURRAY

891.51A/230 : Telegram

The Chargé in Persia (Murray) to the Secretary of State

[Paraphrase]

TEHERAN, February 1, 1925—9 a. m.

[Received 11:25 a. m.]

7. Yesterday the Premier in conversation with the American Administrator General declared unequivocally that the Government, in which he said his position was for the future quite secure, has no thought of allowing agreements with American advisers to lapse at their expiration on September 30. He gave expression of regard for Administrator General himself and hoped he would continue as chief of the staff of American officials. Millspaugh contemplates journey to America later in year to employ other assistants.

MURRAY

891.51A/341a : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, December 18, 1926—6 p. m.

52. The Persian Minister called today on the Secretary of State and as directed by his Government asked that influence of Department be exerted to persuade Millspaugh to give up his endeavors (1) to regulate finances of Ministry of War and (2) to hinder railway projects in Persia.

In commenting on the former matter, the Persian Minister pointed out that present ruler of Persia when still Minister of War had caused resignation of foreign military experts; and he represented that if the American Administrator now successfully forced his claims to regulate war budget, ground might be given for revival of subject of military missions by other governments. The Persian Minister's attention was called to the difference between purely fiscal character of supervision of army budget by the American Administrator and a military expert's concern with the army itself. It was made clear to Persian Minister that although the United States is of course anxious to have the American Adviser accomplish his mission, yet the Department feels some delicacy in attempting to make suggestions to him on a strictly professional aspect of his duties growing out of his powers as Administrator General. Assurances were given to the Persian Minister, however, that you would be informed of his request in order that you might employ your unofficial influence to allay misunderstandings between his Government and the Administrator General.

The Department expressed its surprise over the second point brought up by the Minister and offered the suggestion that the American Administrator's manifest diligence in engaging an American engineer and assistants appeared to contradict the supposition that he was opposed to the aspirations of Persia to develop her transportation system.

You will please review the above with Doctor Millspaugh and report by cable the outcome of your conference with him, giving also your own views on the meaning and importance of the Persian Minister's representations and stating what measures for improving the advisers' position you would recommend.

KELLOGG

891.51A/343 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, December 27, 1926—9 p. m.

[Received December 27—4:22 p. m.]

70. Department's 52, of December 18. I concur with Millspaugh in regarding representations of Persian Minister in Washington as possible result of audience which he had with Shah before he left for America and before present situation had arisen. His indirect censure of American Administrator appears absurd since the latter is now on better terms with the Minister of War than ever before. Millspaugh stated to me in respect of railways that he had himself been responsible for laying aside within a couple of years funds now amounting to over 7,000,000 tomans to be devoted to railway development.

Later the Minister for Foreign Affairs told me that Persian Minister in Washington had received no instructions from Teheran relating to Millspaugh mission.

Alaï has privately discussed legislation [*situation?*] with me. He told me the Shah has again intimated disapproval of American Administrator and expressed dislike for all foreign officials in presence of members of Cabinet and of Parliament. Alaï thinks Shah's present attitude, as also private instructions from Court to Persian Minister in Washington, may have been prompted by machinations of foreigners and by Millspaugh's rejection of contract with German specialist in smelting. Alaï also suggests it might do good if I obtain audience and ask Shah to explain these matters.

Except for Shah's alleged dissatisfaction, which is disquieting, the position of the advisers appears to be better, although other interested countries may be growing jealous of recruiting of numerous American assistants. . . . It appears to me that the attitude of the Shah is the decisive element in the situation.

PHILIP

891.51A/347

The Minister in Persia (Philip) to the Secretary of State

No. 231

TEHERAN, December 30, 1926.

[Received January 27, 1927.]

SIR: I have the honor to report that the status of the American

Financial Mission in Persia continues to be the all-engrossing subject of interest from the point of view of American affairs.

Accordingly, in the course of a conversation with the Prime Minister today, the 30th instant, I mentioned the report of steps being taken to limit the powers vested in Doctor Millspaugh in the case a renewal of his contract should be decided upon by Persia. I said I felt sure that such a proposal would not be made by the friends of the Financial Mission or even by those who were convinced of the personal integrity of Doctor Millspaugh and the efficacy of his efforts in behalf of the Government and people of the country. I said that in my opinion the curtailing of the powers which were accorded to the Administrator General under his existing contract would render his work largely abortive and the position of the entire Mission an untenable one.

The Prime Minister replied that he had heard of the intention, both in and out of the Medjlis, to take under consideration and discussion certain articles of the Millspaugh contract when its renewal should be officially decided upon. He was not informed as to the specific articles objected to in some quarters. However, he assured me emphatically that personally he was opposed to any diminution of the powers now vested in the Administrator General and that he would do all he could to insure against such a decision.

Mostowfi-ol-Mamalek then spoke at length of his interest in the Mission and his desire to see its work, "which has only begun", crowned with success. He reverted to the necessity for great tact, patience and carefulness on Millspaugh's part in the application of his reforms to a country such as Persia. In this connection he said that, when Prime Minister several years since, he had impressed upon Millspaugh, at the outset, the absolute necessity for slow and persuasive measures rather than those of an abrupt and didactic nature if success were to be attained. He still considers the work but at its commencement, though he acknowledges that great and surprising advances have been accomplished, and he sincerely hopes that every means will be adopted by Millspaugh and his associates to conform their work rather to the understanding and the character of the people than to drastic rules and regulations suitable, perhaps, to a western nation with a very different past and very different problems from those of Persia, etc. The Prime Minister concluded by assuring me that his best efforts both with the Shah and his Cabinet would be given toward the assurance of the retention of the American Financial Mission and the success of its efforts.

I have [etc.]

HOFFMAN PHILIP

701.9111/240a

The Secretary of State to the Minister in Persia (Philip)

No. 528

WASHINGTON, January 10, 1927.

SIR: There is enclosed herewith for your information a copy of the remarks made on December 7, 1926 by Mirza Davoud Khan Meftah, the appointed Minister of Persia, upon the presentation of his letters of credence to the President. A copy of the President's reply is likewise transmitted.

You will note that the President in his reply to Mr. Meftah made particular reference to the services being rendered Persia by the American Financial Mission and expressed the hope that with the continued support of the Shah and of the Persian Government, Dr. Millspaugh and his assistants would be able to render even greater services in the future.

In case the substance of the President's remarks regarding Dr. Millspaugh and his assistants is not generally known in government and court circles at Teheran you may care to make informal reference thereto in the course of your conversations with competent Persian officials should an appropriate opportunity offer itself.

I am [etc.]

For the Secretary of State:

J. BUTLER WRIGHT

[Enclosure]

Remarks of the Persian Minister (Meftah), Upon the Presentation of His Letters of Credence, December 7, 1926, and the Reply of President Coolidge

YOUR EXCELLENCY: I have the honor to hand to you the Autograph Letters by which His Imperial Majesty Reza Shah Pahlavi, my August Sovereign, has been graciously pleased to appoint me as Envoy Extraordinary and Minister Plenipotentiary of Persia to the United States of America.

The duties thus entrusted to me by my Sovereign and the Persian Government involve of course the maintenance and further consolidation of the very cordial relations which have for so long past happily existed between our two countries.

I need hardly mention how greatly I value and appreciate the high honor and privilege of being selected by the Persian Government to discharge the duties of so onerous and important a post as Persian Minister at Washington.

The real sympathy and friendship which have always been extended to Persia by your great nation, and which evoked the decision of my Government to apply to the United States for an American Mission to supervise and administer the finances of my country, in-

spire me with confidence that my work here in your beautiful Capital will meet with that success to which His Imperial Majesty and my Government look forward with keen anticipation. The task of the American Mission in coordinating and centralizing the finances of Persia was naturally not an easy one at the outset, but thanks to the zeal and the efforts of its members—so typical of such an industrious and hardworking people like the Americans—considerable progress has already been made; and without doubt the Persian Government and people can look with confidence to further progress being made and to the ultimate consolidation of their most valuable services to Persia, now that the Mission is better acquainted with the people and conditions of the country.

In conclusion may I add Mr. President, that my constant endeavor during my period of office at Washington will be to merit and gain your goodwill, and to draw still closer the bonds of friendship uniting our two people. I am convinced that in my efforts to accomplish so worthy an object I shall be honored with your valuable support and the friendly cooperation of your Government.

THE PRESIDENT'S REPLY

MR. MINISTER: It affords me pleasure to receive from you the letters whereby His Imperial Majesty, the Shah, accredits you as Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States and to accord you recognition in this high capacity. You may rest assured that the officials of this Government will gladly cooperate with you in furthering the cordial relations which have in the past happily existed between our two countries.

I have noted with satisfaction the references which you have made to the sympathy and friendship which have always been extended to the Government and people of Persia by the Government and people of the United States and which led your Government to apply to the United States for an American Mission to supervise and administer the finances of Persia. The success which has thus far attended the efforts of the American Mission in behalf of Persia is most gratifying and I hope that, with the continued support of His Majesty, the Shah, and of your Government, Dr. Millspaugh and his assistants will be able to render even greater services in the future. I ask that you convey to your Sovereign and to the Persian Government and people my sincere wishes for the happiness and prosperity of your nation. In conclusion let me express the hope that your stay in Washington may be an agreeable one in every way.

891.51A/346a

The Secretary of State to the Minister in Persia (Philip)

No. 530

WASHINGTON, January 19, 1927.

SIR: Adverting to the Department's instruction No. 528 of January 10, 1927 enclosing for your information a copy of the remarks made on December 7, 1926 by Davoud Khan Meftah and by the President on the occasion of the presentation of Mr. Meftah's letters of credence as Minister of Persia at Washington, there is quoted hereinafter a statement made by the Secretary on January 1, 1927 with regard to the activities of the American Financial Mission in Persia. "The activities of the American Financial Mission in Persia under the able leadership of Dr. Millspaugh have been noted by the Department with interest and satisfaction."

The above statement was contained in a brief report made by the Secretary in reviewing the work and accomplishments of the Department of State during the past year. This report was published in the *New York Times* of January 1, 1927 together with similar reports of other Cabinet officers of this Government.

It is believed that a knowledge in Teheran of the attitude of the Department as set forth in the present statement of the Secretary may prove helpful to you in rendering informal assistance to Dr. Millspaugh in difficulties which may arise in connection with the work of his mission.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

891.51A/347

The Secretary of State to the Minister in Persia (Philip)

No. 532

WASHINGTON, February 4, 1927.

SIR: The Department has received and read with much interest your despatch No. 231 of December 30, 1926 commenting on the possible motives which inspired the representations made on December 18, 1926 by the Persian Minister in Washington regarding Dr. A. C. Millspaugh, the Administrator General of Persian Finances, as reported to you in the Department's No. 52 of December 18, 6 p. m.

The Department has noted with approval the attitude which you have assumed with respect to the rumored proposal to limit the present powers of Dr. Millspaugh in case a renewal of his contract should be decided upon by the Persian Government.

While the Department is not officially concerned in the above question it has, on numerous occasions, as you are aware, evinced its

sympathetic interest in the work of Dr. Millspaugh and its willingness to render him, when possible, such assistance as might contribute toward the successful accomplishment of his duties.

It is therefore desired that upon appropriate occasions you lend your unofficial good offices in an endeavor to dissuade the Persian Government from taking any action with regard to the Administrator General that might tend to defeat the ends for which he was engaged by that Government and brought to Persia.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

891.51A/356

The Minister in Persia (Philip) to the Secretary of State

No. 275

TEHERAN, February 22, 1927.

[Received March 25.]

SIR: I have the honor to transmit herewith copy of a circular letter (marked confidential) from Doctor A. C. Millspaugh to members of the American Financial Mission under date of January 31, 1927 (Bahman 10, 1305).¹⁹

Doctor Millspaugh informs me that this letter was destined as a means of giving his colleagues an insight into the situation as regards a possible renewal of his contract and of advising them as to the most appropriate attitude for them to adopt in the circumstances.

In the meantime, the question of the renewal of the contracts of Millspaugh, MacCormack and Hall, which will expire in the fall of this year, has now become the all important factor in the future of the Mission.

The crux of this question of course is to be found in the eventual decision of the Persian Government as to the retention of Millspaugh.

Of this, I feel it is possible to say, a very large majority of the public opinion in Persia is in favor. I would go further and surmise that the Shah also is in favor of this, although he may feel that he would prefer a more complaisant and personally sympathetic chief of the American Mission. I am also of the opinion that the actual enemies of the Mission feel that they are hardly strong enough to bring about the defeat of a proposal to renew Millspaugh's contract.

Therefore, I judge that the point upon which the future of the Millspaugh Mission will turn is that of the powers to be vested in the Administrator General of Finances in a new contract.

This feature is one of vital importance to the future work of the Mission. It is that in regard to which the attitude of the Shah is

¹⁹ Not printed.

uncertain as yet. It is that upon which the enemies of the Mission probably will focus all their energies.

It is that question of powers which doubtless forms the chief topic of innuendo and suggestion on the part of various foreign interests who seek to discredit and weaken the position of the American Advisers.

Doctor Millspaugh has emphatically stated to me that he would not remain should any material curtail[ment] of his authority be decided upon, but that he is prepared to continue his work should he be offered a contract of the same nature as that now held by him. In this eventuality, I understand he has several propositions to make in regard to minor changes in his contract as well as in the composition of the Mission.

I may mention that a certain urgency attaches to the question of the renewal of the contracts of Millspaugh, MacCormack and Hall owing to the fact that they are all entitled to leave of absence during the summer months. This leave extends to the dates of expiration of their contracts. Therefore it is most important to the individuals concerned that they be informed before their departure on leave from Persia whether or not their return will be desired.

Much interest has centered upon the advent of Prince Firouz (Nosrat-ed-Dowleh) into the Ministry of Finance. . . .

The new Minister already has displayed insistent determination to assert his authority in matters pertaining to the Mission and to seek out matters which may be open to criticism. In certain respects he has given the impression that he believes his predecessors have been entirely too subservient to the will of Doctor Millspaugh and that they have in this connection failed to exercise many of the powers to which they have been entitled. I have counseled Millspaugh to meet this attitude with entire equanimity and to cheerfully afford Prince Firouz every opportunity of familiarizing himself with the real aims and difficulties of his work. The result of such a course should be to render the more obvious and public any attempt on the part of the Minister to bring unjust criticism to bear upon the efforts of the Mission.

Millspaugh now seems inclined to believe that Prince Firouz will recognize both the advantage to his official career in supporting a work so palpably beneficial to the public weal, as well as the futility of openly attacking the Mission in the face of existing popular opinion in its favor. The Minister recently informed one of Millspaugh's assistants that he intends soon to see the Shah and to recommend the retention of the Millspaugh Mission. No allusion was made however to the probable attitude he would assume with the Shah respecting the powers to be vested in the Administrator General under a new contract.

I have [etc.]

HOFFMAN PHILIP

891.51A/368

*Memorandum of an Audience Given to the American Minister
(Philip) by Reza Shah Pahlavi, April 14, 1927*²⁰

Alluding to the object of the audience the Minister said to the Shah that before His Majesty's departure from Teheran when the Minister had asked for an audience he had heard certain rumors to the effect that His Majesty was not satisfied with the services of the American Mission. He had therefore wished to go directly to His Majesty and try to find out whether they were true and if so what was wrong and whether he (Minister) could assist in solving a possible misunderstanding, etc. He had heard that conditions had since improved.

The Shah replied it was true that he had expressed dissatisfaction with the American Mission. This has not been caused by any personal matters, and his Majesty had no motives. He was thinking exclusively of the interests of the country. He had from the beginning been one of the strongest supporters of the American Mission for he realized the country was in need of the services of this Mission. He had praised and commended those members of the mission who had served satisfactorily, and he had criticized those whose services were not satisfactory. He believed those who had served well should be asked to continue their services and those whose services were not satisfactory should be replaced either by some of the present members of the Mission or by some new ones.

Dr. Millspaugh's methods of action were not satisfactory to the government and if he failed to improve in this respect the government would be compelled to replace him either by one of the members of the present mission or by engaging a new man.

Upon the Minister expressing a desire to know what actions of Dr. Millspaugh were unsatisfactory the Shah said he violated the laws. He wrote provoking letters to the government. Instead of presenting a quarterly report of his activities, as had been provided in his contract, he published pamphlets in which he wrote things which were provoking to the government and which created bad impressions against the country in the eyes of foreigners as well as Persians.

The Minister said he would appreciate it if the Shah would confide in him the cases in which Dr. Millspaugh had violated the laws, for that was exactly what he wished very much to know. He said personally he had a great admiration for Dr. Millspaugh and that his government and the American people believed the American Mission had made much success and that it[s] success was chiefly due to the leadership of Dr. Millspaugh. The Minister had spoken to every member except, possibly, one of the Mission and he had been told by all of

²⁰ Copy transmitted to the Department by the Minister as an enclosure to his despatch No. 319, Apr. 21; received May 21.

them that Dr. Millspaugh was the spirit of the Mission and without him it would have been unable to accomplish what already had been done. He believed that no member of the present Mission would be able to replace Dr. Millspaugh as successfully. The Minister could probably suggest several men in America who might be highly qualified to replace Dr. Millspaugh, but it is doubtful if any of them would be available and if so it is probable that their service would command as much as seventy five to one hundred thousand dollars annually.

Dr. Millspaugh might have his own weaknesses, but his value should be judged from a comparison of his defects with his good qualities. Somebody had said to the Minister Dr. Millspaugh might have twenty undesirable qualities, but he also had sixty (80) good qualities. He would therefore be better than another who might be found to have 50 good qualities and 50 bad qualities. He had good motives. He was sincerely devoted to his duty which was to serve Persia as well as he could, etc.

The Shah said he had written documents which proved that Dr. Millspaugh had violated the laws. According to his contract, which was a law, he was to do things with the concurrence of the Minister of Finance. He had failed to do this. He would say Dr. Millspaugh had 99 good qualities and but one undesirable: that was his disregard for the dignity of government. This was a very grave thing. It was enough to obliterate all his advantages. Unless he changed in this respect the government would be obliged to terminate his contract even if that might result in difficulties for the government. The government preferred to be in difficulties and be independent, rather than be comfortable and be deprived of that independence.

He could not see why it would be difficult to find a new man who could take the place of Dr. Millspaugh, or to replace him by one of the present members of the Mission.

The Minister said he had heard rumors of agitations against the Mission created by elements which were inspired from selfish motives. Of course he was not in a position to judge of the truth of these rumors, but he could see that if anybody had the desire to weaken the Mission the best method of going about it would be to attack the position of Dr. Millspaugh. He admitted Dr. Millspaugh was a student and a man of the desk rather than a courtier or a diplomat, and that in the cultivation of relations with men rather than facts he was at a certain disadvantage. It was a fact, however, that those who were in charge of finances and the control of expenditures throughout the world were not generally popular with those who were affected by their rulings. This is the same

in the United States as elsewhere. But there it is generally accepted and appreciated as an effort to benefit the country as a whole.

He added that the members of the Mission were in a state of uncertainty in regard to whether or not their contracts would be renewed and it would be useful if a decision in regard to this subject could be taken at an early date.

The Shah said he was prepared to support the work of Dr. Millspaugh with his sword, even if he reduced his own salary or that of his son. He paid no attention to intrigues for he was convinced that the American Mission was very useful to Persia. The government would surely renew the contracts of the members of the Mission. He believed, and he said to Dr. Millspaugh, that in the future the government will benefit more from the services of the Mission than in the past. For in the past the members of the Mission had been acquiring experience and in the future they would be in a position to use that experience. If Dr. Millspaugh's contract was to be renewed the government should be assured that he would improve his methods of dealing with it. If he did not undertake to improve those methods the government would have to amend his contract so that he would be in a position wherein he would not be able to exercise them. If none of these things could be done the government would have to replace him.

He agreed with the Minister that Dr. Millspaugh had much improved his methods during the past few months, and he expressed the hope that he would remain that way.

The Minister offered his services in case it was ever felt that he could assist in improving conditions. The United States Government was only interested in the successful accomplishment of the task which the American Financial Mission had undertaken. His government and the American people admired His Majesty for the great work that he had up to the present done for his country and they sincerely hoped that he would be able to do more in the future.

The Shah appreciated the cordial sentiments that the President of the United States had expressed in regard to him on various occasions, to Persians as well as to others who had visited the United States. America was young but her people were full of energy. They naturally liked energetic men.

891.51A/372 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHRAN, June 25, 1927—11 a. m.

[Received June 25—7:16 a. m.]

[43.] Draft of new contract has been submitted formally by Minister of Finance to Millspaugh for his approval. Millspaugh

regards new terms as entirely inadmissible, and he is drawing up for the Prime Minister a long exposition of his own views.

The Minister of Finance, as perhaps also the Government, appears to wish to deprive Doctor Millspaugh and the other Americans of their essential powers and to break up their close unity of organization, or to obtain the resignation of Doctor Millspaugh himself.

PHILIP

891.51A/373 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, June 30, 1927—4 p. m.

[Received June 30—12:21 p. m.]

44. Crisis over contract is becoming acute in opinion of Doctor Millspaugh and myself. He expects to address to Prime Minister at once an explanation of his objections to the contract as drafted, and he requests that I call upon Prime Minister and Shah as soon as he has submitted his prepared statement.

Will the Department empower me to say to the Shah that the Government of the United States is disturbed by information that the American Administrator General has not been accorded a friendly participation in the drafting of a new contract, and that when his departure was already imminent he received proposals which were immediately published and by which his whole past administration of Persian finances seemed to be discredited and his position made otherwise more difficult.

PHILIP

891.51A/373 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, June 30, 1927—6 p. m.

31. Your telegram No. 44. Department recommends that in your audience with Shah you represent that an unfavorable impression will inevitably be made in America by the information that the American Administrator General has not been accorded a friendly participation in the drafting of a new contract, and that when his departure was already imminent he received proposals which were immediately published and by which his whole past administration of Persian finances seemed to be discredited. You are directed to make special reference to the attention which the Financial Mission

to Persia has attracted in the United States, both in and out of Government, and if you think it would lend weight to your representations you may call attention to the allusions to America's interest in Persia made by the President on occasion of presentation of Persian Minister's credentials, and by Secretary of State in his review of American foreign relations in 1926. (You are referred to instructions 528, January 10, 1927, and 530, January 19, 1927.)

Cable full information of further developments.

KELLOGG

891.51A/374 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, July 8, 1927—3 p. m.

[Received July 8—2:54 p. m.]

47. Reference to your 31, of June 30. This morning the Shah gave me very friendly audience. He began by making particular mention of the altered state of Persia, its changing national tendencies and its new dynasty. After these allusions to difference between present conditions and those of 1922, he went on to say with great earnestness that he still looked for sympathy and help of America and for uninterrupted cooperation of experts from America only. He declared that proceedings of Finance Minister must not be construed as evidence of the Government's dissatisfaction with helpful services of Doctor Millspaugh or of design to bring about his withdrawal from Persia, although some changes in contract are thought to be required by present conditions. The Shah stated that Premier and Minister of Court have been instructed to enter into consultation with the Administrator General in preparation of new contract.

Celebration of Moharrem has interrupted public business until the 14th.

PHILIP

891.51A/376 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, July 22, 1927—11 a. m.

[Received July 22—10:55 a. m.]

49. Legation's 47, July 8, 3 p. m. Nothing helpful was accomplished by American Administrator's conference with Prime Minister and Minister of Court. An official communication sent through

Finance Minister to Millspaugh contains draft of new contract. Millspaugh is informed these are last proposals of Government, and is required to signify his intentions before the 27th. The new articles show no important alterations in terms, according to Millspaugh, and are quite inadmissible. . . . His decision is to reject contract and when arrangements for departure are completed to start for America.

On the 20th an editorial appeared in *Setareh-Iran*, which represents views of Finance Minister, advocating employment of financial experts but no autocratic foreign officials.

PHILIP

891.51A/377: Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHERAN, July 30, 1927—5 p. m.

[Received July 30—2:15 p. m.]

50. Department's 36, July 28, 5 p. m., delivered on 30th instant.²¹ My telegram No. 49, July 22, 11 a. m. Millspaugh refused and will leave August 3rd or 4th. Medjliss voted bill 28th instant appointing Prime Minister as Acting Administrator General for unexpired period of Millspaugh's contract. Majority mission members believe their positions will be rendered untenable and that the action of the Government has invalidated their contracts which render them directly accountable to a nongovernmental administrator general, et cetera. Rather than resign, losing all claims to indemnity and traveling expenses, they contemplate remaining temporarily, in the expectation that the Government will either dismiss them or otherwise render itself liable to such claims.

The Shah seems to be squarely behind Teimourtache and Firouz who control this matter. In the absence of the assistance of the Government or a more serious-minded public opinion, neither of which seems probable, the situation does not appear to me capable of favorable adjustment. I have advised Millspaugh to leave as soon as possible and the other members of the mission to avoid any action which might unfavorably affect public sympathy with the mission. It is remotely possible that circumstances may force the Government ultimately to decide to continue the mission with unchanged powers probably under a new administrator general but at present there is no indication of this.

PHILIP

²¹ Not printed.

891.51A/377 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, August 2, 1927—5 p. m.

37. Having in view events reported in Legation's 50, July 30, 5 p. m., Department instructs you to say to Persian Government, provided there should appear to you no ground for objection, that the American Government, recalling the help which it gave unofficially at instance of Persian Government in selection of financial advisers, has now decided to reserve entire liberty in acting upon future requests which it may receive for assistance in promoting the engagement of its nationals as advisers to Persian Government. It should be made quite plain to the Persian Government that the Government of the United States would not wish its relations with the American advisers since 1922 to be used hereafter and under altered conditions as a binding precedent.

KELLOGG

891.51A/378 : Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHRAN, August 4, 1927—1 p. m.

[Received August 4—9:35 a. m.]

51. Millspaugh left today, due New York via Italian vessel first week September.

PHILIP

891.51A/377 : Telegram

The Secretary of State to the Minister in Persia (Philip)

WASHINGTON, August 8, 1927—5 p. m.

39. The Department desires to be informed briefly by telegraph what action, if any, you took on the basis of its 37, August 2, 5 p. m.

KELLOGG

891.51A/381 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHRAN, August 9, 1927—5 p. m.

[Received August 9—11:20 a. m.]

52. Your No. 39 of August 8. I have delayed giving effect to Department's No. 37 fearing to provoke Government to hostility

against members of mission still in Persia. As position of Americans is not improving, I had determined to address communication to Persian Government tomorrow. But I shall again postpone delivery of note until Department confirms previous instructions. If Persian Legation presents further requests, I beg to be kept informed.

PHILIP

891.51A/381 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, August 9, 1927—5 p. m.

39 [bis]. Reference to Legation's 52, August 9, 5 p. m. The Department has received no recent communication of any sort from Persian Minister regarding either the past or future of staff of American advisers in Persia.

Purpose of instructions to Legation, No. 37, August 2, 5 p. m., was first of all to insure Department against becoming later involved in recruiting of a financial mission in United States with authority so diminished and status otherwise so altered that its chances of success in Persia would be dubious.

It is not, of course, the desire of the Department that you proceed to any action which would create unnecessary difficulties for remaining members of mission. Since in your view, however, the moment has come to address note to Persian Government in conformity with instruction No. 37, the Department now confirms those instructions.

Cable information of action you take.

KELLOGG

891.51A/382 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, August 13, 1927—noon.

[Received August 13—11:42 a. m.]

53. Acting under authorization of Department's 39 [bis], August 9, I have today delivered note to Persian Government.

PHILIP

891.51A/413

The Minister in Persia (Philip) to the Secretary of State

No. 414

TEHERAN, August 19, 1927.

[Received September 21.]

SIR: In confirmation of my cable message No. 53 of August 13, 1927, noon, I have the honor to transmit herewith a copy of a note to the

Persian Acting Minister of Foreign Affairs, dated the 11th instant, in which I endeavored to express the attitude of the Department in respect to possible future requests by Persia for its informal assistance in the selection of American citizens as members of a Financial Mission in Persia.

As Dr. Millspaugh's rejection of the Government's proposal was final and in view of the situation then pending between the remaining members of the Millspaugh Mission and the Persian Government, I delayed the action indicated by the Department in its cable instruction No. 37 of August 2, 5 p. m. My idea was that the receipt of the note in question might react to the disadvantage of these gentlemen, who were at the time seeking to bring about a cancellation of their contracts on a favorable financial basis. As it turned out, their conversations have led to nothing but verbal assurances that their status will remain practically unchanged for the time being.

Just what effect the receipt of the above note has had upon this Government, I have not yet had an opportunity to ascertain.

One of the American advisers told me today, the 19th instant, that a Persian of supposed British leanings had informed him that a note had been received from me at the Foreign Office which expressed disapproval on account of the neglect by the Government to accord courtesies to Millspaugh on his departure. The Persian informant added that, of course, this would render impossible the engagement of another American Administrator General.

It may be that the sense of the text of the opening paragraph of the enclosed note has been purposely distorted for political reasons, and that it might have been preferable to have stated clearly that the circumstances alluded to involved the Government's insincere and unfair methods in its final dealings with Millspaugh.

However, I feel assured that the real purport of the note is thoroughly appreciated by the Persian Government.

I have [etc.]

HOFFMAN PHILIP

[Enclosure]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

No. 208

TEHERAN, August 11, 1927.

EXCELLENCY: I have the honor to inform Your Excellency that I am instructed to solicit the kind attention of the Imperial Government to the situation which has arisen from the circumstances surrounding the departure from Persia of Dr. A. C. Millspaugh, Administrator General of the Imperial Finances.

My Government, as a consequence, desires to make plain to the Imperial Government at this time that its attitude toward the Amer-

ican Financial Mission during the past five years is not to be regarded as a precedent to be invoked in the future, when circumstances may have appreciably changed.

The Department of State, therefore, having in mind such official [*unofficial*] assistance as it extended at the request of the Imperial Government in connection with the formation of the Millspaugh Mission, feels under the necessity of reserving to itself complete liberty of action in considering any future requests which may be made for its informal and unofficial good offices in facilitating the employment of American citizens as members of a financial Mission in Persia.

I avail myself [etc.]

HOFFMAN PHILIP

891.51A/398 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, August 29, 1927—2 p. m.

[Received August 29—10:43 a. m.]

56. Reference to your 37, August 2, 5 p. m.; Legation's 53, August 13, noon. I have received information from Acting Foreign Minister, who has always been friendly to Financial Mission, that my note of August 11 has sharply irritated Ministry who will this week prepare a reply the tenor of which will be as follows:

1. Paragraph 1 of Legation's note not clear.

2. Right of interference by other governments not conceded by Persian Government in its disputes with foreign officials in Persian service.

3. Persian Government had been inclined to rely upon obtaining counsel of United States Government in choosing a financial adviser and other officials. Having regard, however, to the recent communication from the American Minister the Persian Government will hereafter refrain from taking into its service any citizens of the United States.

In my communication of August 11 a part of first paragraph is in following words:

"I am instructed to solicit the attention of the Imperial Government to the situation which has arisen from the circumstances surrounding the departure from Persia of Dr. A. C. Millspaugh."

The note continues in conformity with instruction No. 39 [bis].

I am urged by Pakrevan . . . to ask Department to instruct me to withdraw note or to so modify it as to anticipate Persian Government's rejoinder as now designed which he thinks will absolutely preclude possibility of again employing Americans to administer finances, a consequence which those now in control of Government view perhaps

with unconcern notwithstanding general favor in which Persians hold administration by Americans. The country is much disturbed and dissatisfied and, according to reports, Mullas are everywhere inciting to sedition which is not, however, specifically related to question of American advisers.

I hope to learn attitude of Department before Wednesday morning when I am again to see Pakrevan. I do not advise recall of note, but in order to prevent an incident it might be helpful to authorize me to send a note of explanation in sense of Department's 39 [bis], paragraph 2.

PHILIP

891.51A/398 : Telegram

The Acting Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, August 29, 1927—6 p. m.

44. Referring Legation's 56, August 29, 2 p. m.

1. In judgment of Department there exist no adequate grounds for recalling communication of August 11 to Persian Government.

2. Department instructs you to state to Acting Minister for Foreign Affairs, either by letter or in conversation as may seem most suitable, that the communication which you addressed to him is in no way to be regarded as an attempt to interfere with or call in question the acts of the Persian Government in its disputes with foreign officers in its service. You may offer as evidence of sincerity of this declaration that your communication explicitly and repeatedly referred only to future contingencies, and that it was addressed to the Persian Government when the subject of the renewal of contract with the Administrator General had already been brought to a conclusion and his departure was already an accomplished fact. The Acting Foreign Minister should be informed that your note of August 11 was intended only to preclude chance of later difficulties by a timely notice that the informal assistance of the United States Government in 1922 toward securing for Persia a staff of American advisers could not in the future be counted upon unconditionally.

3. If the Persian Government finds some obscurity in the initial statement of your communication as you quote it in your telegram 56, you should make it quite clear to the Persian Government that the words have no special significance except as an opening formula.

4. It is taken for granted by the Department that your communication of the 11th instant contained the substance of the Department's 37 of August 2, 5 p. m. Telegram 39 [bis], August 9, 5 p. m. from Department was intended solely for your private knowledge and direction and not for transmission.

CASTLE

891.51A/400 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, September 1, 1927—10 a. m.

[Received September 1—6:52 a. m.]

59. On August 31 Pakrevan read to me in English the Government's rejoinder to my note of August 11, which he has been instructed to sign and deliver. It is very sharp in tone as I predicted in my No. 56, August 29. He received my *aide-mémoire* of explanation and has promised to present it to the Ministry, but he requests me to ask the Department to authorize withdrawal of my note, and thus to thwart what he suspects as purpose to subvert present relations with Russia [*America?*] by men now in control of the Government whose position is, however, precarious and who are provoking secret opposition. Pakrevan informed me that the Government had resolved, probably at the instance of the Shah, to negotiate in the United States for the employment of some eminent expert in finance, and that it had declined to receive proposal to nominate . . . to the post.

I would advocate without hesitation recall of note of August 11 if I were convinced that such course would forestall possible break in good relations and thwart designs of men now in control of Government. Under present circumstances I should be disposed to withdraw note if Persian Government will accept stipulation that the United States Government may in future renew expressions contained in note. If Department inclines to this course I should be glad to have instructions without delay.

Taghi Zadeh, with whom I have discussed present affairs, thinks conditions will not continue as they are. He also told me he hoped note would be recalled by Department.

PHILIP

891.51A/400 : Telegram

The Acting Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, September 1, 1927—5 p. m.

47. In view of fact that Persian Government has construed Legation's note of August 11 in sense quite alien to intentions of the United States Government as conveyed in Department's 37, August 2, 5 p. m., and in order to correct this misunderstanding, the Department now sanctions recall at your discretion of the note and of the supplementary *aide-mémoire* referred to in Legation's telegram 59,

September 1. Should you exercise these discretionary powers, you are instructed to communicate to Acting Foreign Minister by word of mouth the Department's explanation as above stated, and you may add any other explanations as may seem to you proper. You will not, however, permit yourself to be drawn into discussion of position American Government may hereafter adopt toward American advisers in Persian service.

CASTLE

891.51A/419

The Minister in Persia (Philip) to the Secretary of State

No. 431

TEHERAN, September 10, 1927.

[Received October 5.]

SIR: I have the honor to acknowledge the receipt of the Department's cable instruction No. 47 of September 1, 5 p. m., and to refer to previous correspondence relative to my note of August 11, 1927, to the Persian Acting Minister for Foreign Affairs, which outlined the attitude of our Government as regards possible requests in the future for its assistance in the selection of American citizens as members of a financial Mission in Persia.

In my cable messages Nos. 56 and 59 of August 29, 2 p. m., and September 1, 10 a. m., respectively, I reported the gist of conversations, with the Persian Acting Minister of Foreign Affairs on this subject.

On the 28th ultimo, Mr. Pakrevan called upon me and represented the situation as reported in my No. 56.

In accordance with the authorization embodied in the Department's No. 44 of August 29, 6 p. m., I prepared an *Aide Mémoire*, a copy of which I have the honor to transmit herewith, and which I handed to Mr. Pakrevan in the course of our subsequent conversation on the 31st ultimo.

I must say that Mr. Pakrevan did not seem impressed by this statement as an effective means of causing his colleagues to reconsider their decision to send a sharp and conclusive reply to this Legation's note of August 11th. He reiterated the sincere hope that I would endeavor to obtain authorization to retire my note, remarking that the Legation will always be in a position to send this or any similar communication it may desire later on. The Acting Foreign Minister promised, somewhat reluctantly, to submit the *Aide Mémoire* to the Council of Ministers at its next session, which he thought would be held on the 3rd instant. He was most emphatic in his assurances that he is acting in this matter as one desirous of avoiding an incident which might seriously impair Persian relations with the United States

and assured me that he had done everything in his power to assure the retention of Dr. Millspaugh.

As I had planned to leave town for a few days of much needed change, on the second instant, I instructed the Secretary of Legation to communicate verbally with the Acting Foreign Minister and (1) to ascertain from him if he had been able to use my *Aide Mémoire* to advantage, and (2) if not, and if the Department had authorized the withdrawal of the note, to inform him that I would do this temporarily.

The Department's cable instruction No. 47, above acknowledged, being received during my absence, the Secretary of Legation called upon Mr. Pakrevan as arranged. The latter stated that my *Aide Mémoire* had seemed to further aggravate his colleagues. He was then informed that, since the note had been interpreted in a sense entirely foreign to my intention and on account of his urgent request, the note would be withdrawn pending my return to Teheran.

Since my return on the 6th instant I have not had an opportunity to see Mr. Pakrevan, but will do so shortly.

In the course of the conversation with the Acting Foreign Minister on the 31st ultimo, he spoke of the desire of the Government (and the Shah) to engage a prominent financial expert in the United States. In this connection, he said that the name of . . . had been suggested as successor to Dr. Millspaugh but that this suggestion had been rejected.

It has been rumored that . . . will be engaged as adviser to the Ministry of Public Works.

No comments have been made by me here as to the Department's future attitude toward an American Financial Mission in Persia.

I beg to refer to the copy of my note of August 11th, transmitted with my despatch No. 414 of August 19, 1927, and to state that the first word of the third paragraph, line two, thereof, should read: "unofficial", and not "official" as erroneously appears in the copy.

I have [etc.]

HOFFMAN PHILIP

[Enclosure]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

The Minister of the United States of America has the honor to submit to the kind consideration of His Excellency the Acting Minister of Foreign Affairs the following *Aide Memoire*, with the expression of the hope that it may prove of assistance in clarifying any misconception which may possibly exist on the part of the Imperial Govern-

ment respecting the purport of the significance of his note of the 11th instant.

AIDE-MEMOIRE

With regard to the first paragraph of Mr. Philip's note of the 11th instant, it is purely introductory and has no other significance than to serve as an indication of the general subject of the note.

The note alluded to is not to be regarded in any sense as a criticism in connection with any question which may have arisen between the Imperial Government and foreign nationals in its service.

Mr. Philip believes that this is rendered perfectly clear by the fact that the note, in two separate paragraphs, refers to the future; and also by the fact that it was delivered only after the settlement of the question of Dr. Millspaugh's contract, and after his departure from Persia.

The unique purpose of the note in question was to preclude any possible embarrassment or misunderstanding between the two Governments in future, by a frank statement now that the informal good offices extended by the American Government five years ago would not necessarily be repeated under every circumstance.

TEHERAN, August 30, 1927.

891.51A/409 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, September 16, 1927—noon.

[Received September 16—7:42 a. m.]

60. Referring to the Department's telegram 47 of September 1.

1. My note of August 11 to the Acting Minister of Foreign Affairs was withdrawn on September 5. The result appears to be satisfactory.

2. It is anticipated that Cabinet changes will take place on the return of the Shah from Tabriz next week. There is a rumor that Vossough may become Prime Minister and that Firouz will be replaced.

3. For these and other reasons I have decided to postpone my leave of absence . . .

PHILIP

891.51A/415a

The Secretary of State to the Minister in Persia (Philip)

No. 581

WASHINGTON, September 22, 1927.

SIR: Adverting to the Department's telegram No. 51 of September 19, 1927, 7 p. m.,²² with regard to a statement to the Press made in

Washington on September 17th by Dr. A. C. Millspaugh, formerly Administrator General of the Finances of Persia, concerning his work in that country and the circumstances of his withdrawal, there is enclosed herewith for your information and guidance a copy of the statement under reference.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

[Enclosure]

*Statement Made to the Press by Dr. A. C. Millspaugh,
September 17, 1927*

Dr. A. C. Millspaugh, Administrator General of the Finances of Persia has arrived in Washington after terminating five years of work in that country as head of the American Financial Mission.

Dr. Millspaugh left America in the Fall of 1922 with eleven assistants, having entered into a contract with the Persian Government which gave him complete charge of the finances, including the control of the personnel of the financial administration and an absolute power of veto over expenditures and financial obligations. The contracts of several members of the Mission having expired, the Majless (Persian Parliament) in 1925 authorized the employment of twelve additional Americans for the finances, including an agricultural expert, bringing the total of the Mission to sixteen. Soon after, an American director of highways, Mr. A. F. Morris, was engaged; and, following the decision of the Government and Majless to construct a railroad, Mr. W. B. Poland was appointed director of railroad construction and was provided with a staff of eleven American engineers. More recently, Mr. F. C. Clapp of New York has been engaged to study and report on the petroleum resources of the country. The Majless also authorized the establishment of a National Bank and the engagement of an American as Director.

At the time of the departure of Dr. Millspaugh from Persia in August of this year, there were fourteen Americans in the Ministry of Finance and thirteen in the Ministry of Public Works.

The work of the Americans in Persia coincided with the rise of Reza Shah-in-Shah Pahlevi, the remarkable strong man of Persia, who by a *coup d'etat* in 1921 became Minister of War and Commander-in-Chief of the Army, organized an efficient military force, suppressed tribal uprisings, created unprecedented conditions of unity, order and security in the country, dictated the appointment and dismissal of prime-ministers, finally in 1923 became himself Prime-Minister, and, in the Spring of 1926, was crowned Shah-in-Shah, establishing the new Pahlevi dynasty and retaining command of the military forces of the Empire.

Dr. Millspaugh's contract as Administrator General of the Finances expires officially on September 30 next; but, for more than a year, the renewal of his contract has been the chief topic of discussion in Persia. Finally, in June of this year, the Persian Government invited him to remain for another period of three years; but, because certain of the Government proposals would have substantially altered the conditions and greatly reduced the powers under which he had previously worked, Dr. Millspaugh declined the Government's offer, and immediately availed himself of his right to leave of absence.

The Government thereupon proposed to the Majless that Mr. McCaskey, senior member of the Mission, should act as Administrator General until September 30. This proposal was rejected by the deputies and instead, the Prime-Minister, Mr. Hedayat, was appointed Acting Administrator General.

Following these events, the members of the Financial Mission, whose contracts run until the Summer of 1928 and who had been engaged in 1925 to serve under the orders of the Administrator General of the Finances, unanimously charged a violation of their legal rights, on the ground that the office of Administrator General had been in effect abolished, and requested a settlement and termination of their contracts.

As Administrator General of the Finances of Persia, Dr. Millspaugh, who had previously been Economic Adviser of the Department of State, had no official connection with the Department or with the American Government, and the Department made it clear to the Persian authorities at the time of his appointment that this Government assumed no responsibility for his actions as an employee of the Persian Government.

Dr. Millspaugh said:

"At the time of the arrival of the American Mission in Persia in November, 1922, the civil administrations of the country, particularly the Ministry of Finance, were in a state of demoralization, corruption and chaos. The Persian people, while ancient in their history and traditions, were young in the experience of popular government, and, with rudimentary standards of public honesty and duty, were unable to separate finance and administration from the wasting and corrupting influences of internal and foreign politics.

"Huge sums in taxes remained uncollected and arrears of salaries and claims against the Government had accumulated to an amount of over fifteen million dollars. In the fiscal year 1922-23 the deficit was over \$2,500,000 in a budget of approximately twenty million. The funds applied to productive purposes were negligible and judicial, educational, and sanitary institutions were practically nonexistent. The hopeful factors in the situation were: the achievements of Reza Khan Pahlevi in establishing order and security; the decision of the Government and Majless to obtain the effective as-

sistance of foreign experts; the universal genuine desire in the country for reform and progress; the general sentiment of sound nationalism; and the characteristics of the people—quick, intelligent, adaptable, and industrious.

"During its almost five years of work, the American Mission made encouraging progress in reorganizing the tax system; revenues increased from twenty million to thirty-one million dollars; expenditures were placed on a budgetary basis and accounting was established in all departments except the Ministry of War; the budget was balanced and in the last two fiscal years a substantial surplus was created; the funded debt was reduced and the payment of claims begun; \$1,500,000 was being devoted annually to the construction and maintenance of highways; a fund of over ten million dollars, increasing at the rate of six million dollars a year, was established for railroad construction; appropriations for agricultural development were increased; telegraph lines were extended, wireless stations were erected and are working, commercial air transport is in operation over three main routes; mail transport has been largely motorized; steps were taken to encourage domestic industry and to promote exports, the Government adopted a program of curtailing opium cultivation, which is now being discussed at Geneva, sufficient revenues were allocated to public instruction to render possible the establishment in a few years of universal elementary education; sanitation facilities were extended. Just before my leaving, the Majless passed a law for a national bank and I had proposed appropriations for irrigation works, for the settlement of the tribes on the land, and for the encouragement of the rug industry.

"There was convincing evidence at the time of my departure that a large majority of all the influential classes of the people, such as the merchants, clericals, landed proprietors, and office-holders, a majority of the deputies of the Parliament, a majority of the ex-prime ministers and ex-ministers who had held office during the period of our work, even a majority of the Council of Ministers at the time of my departure, were in favor of the renewal of my contract without essential change. The Government proposed, however, that any dispute in the future between the Minister of Finance and myself should be decided according to the nature of the dispute, by the Council of Ministers, by an *ex-officio* commission of high Persian officials, or by the Majless. My counter-proposal that disputes over the interpretation of my contract should be decided by the Majless was not accepted by the Government. My feeling was, that the Government proposal, if accepted by me, would have deprived me of all effective control over expenditures and would have prevented the Mission from continuing to serve the real needs of the Persian people.

"One must view with keen regret the decision of the Shah which may interrupt an undertaking which had become internationally known as a unique and useful service by a devoted group of Americans to an ancient and awakened, but still undeveloped, Oriental nation. On account of the present situation, however, we must not lose confidence in the capacity of the Persian people for self-government or in their possibilities for progress. Other nations have had their temporary set-backs. Other peoples have moved forward by fits and starts. Other governments have made erroneous decisions and later corrected them. It is my hope and belief that the Persian

Government will again understand, as it clearly perceived in 1922, that its financial administration, placed for a term of years in the charge of honest, competent and politically disinterested foreign experts, is the surest means of progress, and, until the Persian governmental system is stabilized to insure financial soundness, probably the best practicable instrumentality for fulfilling the sane nationalistic aspirations of the country".

NOTIFICATION BY PERSIA OF THE TERMINATION OF CAPITULATIONS²⁸

791.003/11 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, April 27, 1927—noon.

[Received April 27—6:25 a. m.]

19. The Shah yesterday, in the course of an address delivered to the staff of the Ministry of Justice which has been newly formed by Ali Akbar Davar, announced that he had issued orders to the Government that the ground should be prepared for the abolition of capitulations in Persia as soon as possible. The Shah stated that this was one of his principal desires.

PHILIP

791.003/24

The Minister in Persia (Philip) to the Secretary of State

No. 329

TEHERAN, April 30, 1927.

[Received June 2.]

SIR: In confirmation of my cable message No. 19 of April 27—12 noon reporting a public statement by the Shah to the effect that he had instructed his Government to take steps to bring about the abolition of the capitulations, I have the honor to report that this announcement gave rise to much comment and speculation on the part of my colleagues and the foreign nationals in Teheran.

The fact that the Shah's statement appears at first to have been construed in many quarters as a virtual declaration that he had taken definite action to abolish the capitulatory rights enjoyed by foreign nations in Persia, or that he was about to do this, had the effect of enhancing the concern of several of the foreign representatives.

A meeting of the diplomatic representatives of the capitulatory treaty states was called by the German Minister for the afternoon of the 28th instant.

²⁸ For previous correspondence concerning extraterritoriality in Persia, see *Foreign Relations*, 1924, vol. II, pp. 565 ff.

The morning of that date I happened to have a conversation with the Acting Minister of Foreign Affairs. He confirmed my own impression that the Shah had availed himself of the opportunity of opening the judiciary departments organized by the new Minister of Justice, Mirza Ali Akbar Davar, to announce his desire to bring about the freedom of Persia from the capitulatory treaties. Mr. Pakrevan stated his conviction that his Government had no intention of acting with precipitation in the matter, and that all due consideration for the foreign governments concerned would be exercised in taking steps toward the end desired by all Persians. He also said that the Prime Minister had the intention of making public a statement on the subject at an early date.

Later in the same day I was engaged to lunch with Mr. Abdul Hussein Teimourtache, Minister of the Court, with whom, and the Belgian Minister, I had a conversation on that occasion.

Mr. Teimourtache spoke with great assurance and decision concerning the policy of his Government in the matter of the capitulations, though he did admit that there was no intention of taking any immediate radical action in their regard.

Briefly, he asserted that he believed the abolition of capitulations would be an easy matter and that his Government will bring this about by the simple process of giving official notice of its intention to terminate the existing treaties on the expiration of the interval mentioned for that purpose in the several pacts.

He went on to say that Poland, Russia and Turkey are now without capitulatory rights. France and Spain have perpetual treaties.²⁴ The capitulatory rights of Great Britain are guaranteed by the "Most Favored Nation" clause in its Treaty.²⁵ The treaties of all other nations having relations with Persia provide for their cancellation at the will of either party.

Mr. Teimourtache stated that Persia could if necessary break relations with France should that Government refuse to agree to the suppression of its capitulatory rights. To the question of the Treaty with Spain he did not attach importance as the relations with that country were practically nil. The notification to all remaining governments that Persia desired to terminate her treaties with them would then leave Great Britain in the position of having no capitulatory rights, owing to the absence of any "Favored Nation".

The energetic Minister of the Court further insisted that Persia either has in force, or is about to initiate modernized codes of laws; and that she is now completely reorganizing the departments of Justice;

²⁴ Treaty of July 12, 1855, between France and Persia, *British and Foreign State Papers*, vol. XLV, p. 869. Treaty of March 4, 1842, between Spain and Persia, *ibid.*, vol. LVIII, p. 592.

²⁵ Treaty of March 4, 1857, between Great Britain and Persia, *ibid.*, XLVII, pp. 42, 44.

that Persia is determined to free herself from the capitulatory bonds with which she is one of the last nations in the world to be tied, etc. He added that of course Persia hoped and expected to have the friendly co-operation of the Powers in this step, and that as soon as it had the assent of the majority of foreign governments he was sure the others would follow their lead.

My Belgian colleague appeared to be greatly impressed by this conversation and argued at length in regard to various phases of the situation which might arise as a result of such action. I said that I was not prepared to discuss the matter at that time but that I would only say that I was certain that my Government would sympathetically receive and consider any proposals that might be advanced by Persia in the future. At the same time, I expressed myself as quite sure the Persian Government had no intention of approaching the subject in a hasty and brusque manner, or in one which might react to its disadvantage in other directions.

All the chief diplomatic representatives of foreign Governments in Persia, save the Russian, the Turkish, the Polish and the Japanese representatives were present at the diplomatic meeting which was held the afternoon of the 28th instant.

It may be mentioned that the Japanese representative now here is not yet accredited, but is on special mission, with the stated object of negotiating a treaty with Persia. I have been told that one of the chief difficulties which has been encountered in these negotiations has been the desire of the Japanese Government to be granted similar capitulatory rights as those enjoyed by the nationals of other powers in Persia.

The business of the diplomatic meeting consisted of an informal discussion of the situation arising from the Shah's statements at the opening of the Ministry of Justice. Several of those present, including myself, had received many inquiries from their various nationals engaged in business in the country, regarding the possible effect of drastic action by the Government. I said that I had replied to such inquiries in the sense that I saw no occasion for alarm of any kind and that I had received no intimation of any impending or drastic action on the part of this Government in connection with the capitulations. The Belgian Minister repeated the conversation we had had with Teimourtache, and both he and the German Minister impressed me as being somewhat apprehensive, perhaps, lest the Shah's statements might be the prelude to a sudden move to abolish extra-territorial rights at once. No others seemed to share that view. The British Minister, who was present accompanied by the Oriental Secretary of the Legation and the British Consul, took practically no part in the discussions. I said that I saw no reason for action of any kind on the part of the diplomatic body as the outcome of

the Shah's statements, and that I did not consider those of the Minister of the Court either as official or as an indication of a decision by the Government to take immediate action to abolish the capitulations. I asked the British Minister if he did not agree with me (as the others seemed to do). He said, he did; and that he had heard nothing whatever from the Government of any such intention.

The meeting terminated after a short discussion as to the validity of certain rights, guaranteed by the former "Tourkmantchai" Treaty with Persia of 1828,²⁶ concerning criminal trials, etc. In this connection was cited as an analogous case the trial of an American citizen for criminal assault upon another American having been held in an American consular court, subsequent to the abrogation of the Tourkmantchai Treaty. There was likewise a discussion as to whether the treaty provisions governing the administration of the estates of foreign nationals dying in Persia were to be defined as capitulatory or treaty rights. The Italian Minister maintained that they would not be affected by the abolition of the capitulations.

I have the honor to state that my despatch No. 330 of May 2, 1927,²⁷ particularly mentions the address of the Shah at the opening of the reorganized Ministry of Justice on the 26th instant.

I am unable for the moment to discern anything more serious in the situation than a public expression by the Shah of a very general national ambition in Persia. Yet I feel very certain that there are influences strongly pushing the Shah to early and determined action in the matter of foreign capitulatory rights.

The Soviet Government, it may be taken for granted, is not backward in this. And I feel assured that pressure is being brought in that quarter to cause Persia to act.

I have been informed also that the attitude of the Turkish Government is one of impatience over the delay on the part of Persia in abolishing all foreign capitulatory rights (as was done by Turkey), following a tacit agreement mutually to waive such rights for Turkish and Persian nationals in the territories of each Government.

It has been likewise rumored here that Great Britain, in testimony of her continued friendship for the dynasty of Reza Shah, has given some intimation of sympathy in anticipation of a decision by Persia to throw off the capitulatory yoke. In regard to this I have received as yet no definite information of a reliable nature. But I will report anything of seeming importance in this connection.

A somewhat interesting side light is thrown upon the attitude of Persia in this matter of capitulations by an item of information which came to me recently from a seemingly reliable source. This was to

²⁶ Treaty of February 10/22, 1828, between Russia and Persia, *British and Foreign State Papers*, vol. xv, p. 669.

²⁷ *Infra*.

the effect that the actual reason for the continued refusal of the Persian Government officially to recognize Iraq is due to the refusal of the latter Government to accord to Persian nationals in Iraq the special status in the civil court suits that is extended to the nationals of other foreign powers there.

I have [etc.]

HOFFMAN PHILIP

891.041/4

The Minister in Persia (Philip) to the Secretary of State

No. 330

TEHERAN, May 2, 1927.

[Received June 2.]

SIR: I have the honor to report that on the 26th ultimo, the Shah officiated at the opening of the new Judiciary Departments which have been reorganized by Mirza Ali Akbar Khan Davar, ex-Minister of Public Works, who was appointed Minister of Justice in the present Government under the leadership of Mostowfi-ol-Mamelek.

As previously reported to the Department, Mr. Davar has been vested with special powers by the Medjlis in order to enable him to reform and reconstitute the Ministry of Justice which has been up to the present in an unsatisfactory state of inefficiency and corruption. He appears to be strongly supported by the Shah in this work.

Mr. Davar has made strenuous efforts to procure the services of men of ability and integrity, but whether he has been entirely successful remains to be seen. The elderly Mirza Mehdi Gholi Khan Hedayat (Mokhber-os-Saltaneh), has resigned the portfolio of Public Works in the Mostowfi Cabinet and has been appointed by Davar as President of the Court of Cassation (the highest judicial office) at a salary of seven hundred and fifty Tomans a month. I understand that Davar made every effort to persuade Mr. Hassan Pirnia (Mushir-ed-Dowleh) to accept this office, and that he offered him a salary of one thousand Tomans a month if he would do so.

Other names published as newly appointed members of the Court of Cassation are the following: Mirza Mohammed Sadegh Tabatabai, Haji Charaf-ol-Molk, Abbas Ali Khan Chevkhat, Nasser-ol-Islam, Hairi-Zadeh, Seyid Mohammed Ghomi, Nair-ol-Molk and Haji Seyid Nasrollah, etc.

One of the departures to be noted in the new judiciary establishment is the appointment of laymen to replace clerics in the various departments. Whereas the Mullah element was greatly in the majority in the previous judiciary, this has now been reduced to a minority of about one third in the total of the more responsible offices.

The Interpreter of this Legation, Mr. Allah Yar Saleh, was offered an appointment in the new Ministry of Justice, and has accepted it. His position is that [of] Court Interrogator ("Juge d'Instruction"), and the salary is about what he received from our Government.

The fact that he has been assured that, with others now appointed by Davar, he will be classified as a member of the regular Civil Service, for which he has passed the age limit under the existing laws, has greatly influenced his decision, I believe.

Under the powers now vested in Mr. Davar he has been free to make such appointments as he saw fit within a certain period of time, subject to final approval by the Medjlis six months hence. In the event of such approval, of which Davar represents himself as confident, all of these officials are destined to pass into the regular Civil Service, irrespective of age, etc.

Dr. A. C. Mills²⁸ has expressed himself to me as being in some doubt as to the successful outcome of Davar's activities. Apart from the fact that the reconstitution of the judiciary is calling for largely increased appropriations, he is of the opinion that the majority of the new men appointed lack the experience and ability necessary for the institution of valuable and lasting reforms.

The Ceremony of the opening of the new Courts took place in the Golistan Palace, in the presence of the Shah and the Cabinet.

The Shah delivered a short address to the new judges and chiefs of various sections, to whom he handed their commissions.

The Shah said that he attached great importance to the reform of the Judiciary. He expressed the hope that the new officials would prove themselves worthy of the great responsibilities entrusted to them. One of his chief desires had been to abolish the capitulations. The formation of the new Judiciary was the first important step in that direction. He said he had issued an order to the Government (or to the Prime Minister) to prepare the ground for the abolition of the capitulations as soon as possible.

The Minister of the Court then read the instruction mentioned, a translation of which I have the honor to transmit with this.

This instruction was published in the *Shafagh Sorkh* of the 27th ultimo, presumably at the instance of the Prime Minister. I beg also to transmit herewith a translation of an article carried by that paper on the same date in reference to the Shah's declared intentions with regard to the capitulations.²⁹

I have [etc.]

HOFFMAN PHILIP

[Enclosure—Translation]

*Order Issued by the Shah of Persia to the Prime Minister Concerning
Abolition of the Capitulations*³⁰

The Shah's message to the Prime Minister:

At the moment when the judiciary, recently reorganized, is beginning to function on a new basis, We believe it necessary to express

²⁸ Administrator General of the Finances of Persia. For papers on the Mills-paugh financial mission, see *ante*, pp. 523 ff.

²⁹ Not printed.

³⁰ As printed in *Shafagh Sorkh*, Apr. 27, 1927.

Our opinion on the subject of the abolition of the capitulations, a subject of immense importance from the viewpoint of safeguarding the prestige and rights of the nation. The Government is instructed to prepare the ground for the abolition of the capitulations in the most practicable manner.

791.003/25

The Minister in Persia (Philip) to the Secretary of State

No. 341

TEHERAN, May 6, 1927.

[Received June 2.]

SIR: Adverting to my despatches Nos. 329 and 330 of April 30 and May 2, 1927, respectively, in which mention was made of recent announcements concerning the intention of Persia to abolish the capitulations, I have the honor to quote in translation a statement made in the Medjlis by the Prime Minister on the 1st instant, as follows:

"I believe the honorable Deputies are aware of His Imperial Majesty's desire to abolish as soon as possible the capitulations existing in Persia, and that he has issued a Decree to that effect. There is no necessity to mention how profitable and necessary for this country will be the attainment of this sacred aim. My intention is now to inform you that, hereafter, 'the preparation of the grounds for the abolition of the capitulations' will constitute the most important object of the Government's program. I draw your kind attention, especially, to the fact that the Government's efforts to this end will be in entire conformity with well known international facts and the lawful rights of the Persian Government".

In the course of a conversation with the Prime Minister, on the 5th instant, he assured me that the Government has no intention of taking precipitate action in this matter, but that it desires to accomplish its purpose by perfectly friendly and legal means. He also made some remark as to the special feeling of gratitude which would be entertained by Persia toward such nations as promptly extended sympathy and assistance to her in the attainment of her national desire!

In the Medjlis there have been several speeches lauding the Shah's action and hailing the advent of freedom from the capitulatory yoke. In this body, also, the Budget committee has disapproved the appropriation for the ensuing year to provide for the salaries and expenses of the Kargozariats (Foreign Office Tribunals) throughout the country. This action is considered entirely premature in official circles, and in all probability will be rescinded, from what I hear.

I have [etc.]

HOFFMAN PHILIP

791.003/12 : Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHRAN, May 10, 1927—7 p. m.

[Received May 10—3:43 p. m.]

26. My 19 of April 27, noon. The following is a translation of a note received from the Acting Minister for Foreign Affairs, dated today, the 10th instant.

"As you are aware His Imperial Majesty the Shah has willed that consular jurisdiction and privileges enjoyed by foreign subjects in Persia which are commonly interpreted as capitulatory rights be discontinued and abolished. You will of course admit that the great change which has taken place in the conditions of this country as well as in the public opinion necessitate the fulfillment of this design. On the other hand the Persian Government has consistently respected the obligations and commitments which it has willingly and without reluctance and force assumed, and has as far as possible avoided any breach thereof. Under these circumstances and with a view to achieving the sacred royal design which constitutes today the aim and ideal of the Persian Nation, the Government has in mind to renew the existing treaties with the most-favored nations. I, therefore, beg respectfully to inform Your Excellency and announce that by virtue of chapter 8 of the treaty consummated between the Persian Government and the United States Government on December 13th, 1855 [1856],³¹ my Government terminates same treaty and will be glad if within a period of one year while the existing treaty still holds good and remains effective, your Government would take appropriate measures for the consummation of a new treaty with the Persian Government so that on May 10th, 1928, when the present treaty will become null and void the amicable relations now existing between the two Governments and people should not cease.

I also request Your Excellency to kindly communicate the circumstances to your Government."

PHILIP

791.003/12 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, May 12, 1927—2 p. m.

18. Reference is made to your telegram 26 of May 10, 7 p. m. Report briefly by telegraph what action, if any, the Persian Government has taken concerning treaties between Persia and other powers which possess extraterritorial rights there. Your comment, as well as that of your colleagues, especially the British, would be helpful with regard to the present situation.

KELLOGG

³¹ Malloy, *Treaties, 1776-1909*, vol. II, pp. 1371, 1373; *British and Foreign State Papers*, vol. XLVII, pp. 355, 358.

791.003/13 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, May 13, 1927—11 p. m.

[Received May 13—6:40 p. m.]

27. Referring Department's 18, May 12. All powers enjoying most-favored-nation rights under treaties which may be abrogated by year's notice have received similar notes. Treaties with Spain and France are "in perpetuity", but on ground that perpetual treaties may be denounced at any time by either party the Persian Government has given notice of intention to terminate these also on May 10, 1928. On May 12 a communication to the British Legation contained a notification that foreign subjects in Persia will cease to enjoy consular jurisdiction and other privileges after May 10, 1928, and that after that date such privileges will be denied those governments claiming them on most-favored-nation principle.

I was informed by Acting Foreign Minister that many persons in Persia have demanded of the Government greater expedition in denouncing treaties, but that Government is resolved to adhere to a friendly and considerate course, and that in particular it looks for sympathetic assent from the United States, and hopes also that the United States will be the first to help Persia to deliver herself from grievous disabilities.

Representatives of other powers here appear to accept situation philosophically while awaiting instructions. They seem uncertain whether Persian Government is legally within rights in denouncing treaties with France and Spain. British Minister acknowledges sympathy with attitude of Persians, but doubts if course they have taken is entirely correct or will in the end succeed. Today at meeting of the diplomatic body the unanimous decision was taken to submit to our Governments identical recommendations regarding acknowledgment of note of May 10.³² Suggested form of acknowledgment will be forwarded tomorrow.

A very favorable impression would, of course, be produced in Persia if our Government should announce at once by cable a sympathetic attitude toward present situation. Denunciation of our treaty has been legal. But it should also be borne in mind that the impending withdrawal of consular jurisdiction will be a grave disadvantage to foreigners so long as there is a want of efficient courts and modern codes in Persia.

Affairs remain otherwise as usual.

PHILIP

³² See telegram No. 26, May 10, from the Minister in Persia, p. 574.

791.003/14: Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHERAN, May 14, 1927—3 p. m.

[Received May 14—10:55 a. m.]

28. My 27, May 13, 11 p. m. There follows a translation of a form of acknowledgment of the Persian Government's note of the 10th instant which all the diplomatic representatives of the most favored nations have agreed to submit to the consideration of their Governments.

"The Government of (blank) acknowledges the receipt of the note addressed to its Legation under date of May 10, 1927, number 1845/74, to which it will give sympathetic consideration. While reserving its ultimate decision and while taking into consideration the reasons which have necessitated the adoption of those clauses which, taken as a whole, constitute the so-called capitulations, it desires, as a preliminary, to have precise information respecting the new codes of justice and the organization of the courts which are destined to replace consular jurisdiction in Persia."

The British and French representatives will also submit this to their Governments though the notes received by them differ from the others.

PHILIP

791.003/14: Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, May 16, 1927—3 p. m.

19. (1) If and when representatives of other powers are authorized to present note to Persian Government in sense of the draft contained in Legation's 28, May 14, 3 p. m., and unless you perceive objection, you should use following terms in formal communication on behalf of this Government to the Persian Government.³³

"I am instructed by my Government to acknowledge the receipt of the note addressed to this Legation under date of May 10, 1927 in which, in accordance with article 8 of the Treaty of Friendship and Commerce of 1856 between the United States and Persia notice is given of the termination of the said treaty on May 10, 1928.

"The Government of the United States is prepared to consider in a friendly and sympathetic spirit the several questions raised in the Persian Government's note of May 10 but desires as a preliminary to have precise information regarding the new codes of justice and the organization of the courts which it is proposed should replace consular jurisdiction in Persia."

³³ Quotation not paraphrased.

(2) Instructions are being sent to Embassies in Paris and London to sound French and British Governments regarding their attitudes in matter of capitulations in Persia, but to refrain from committing this Government to joint action with other powers exercising capitulatory privileges.

(3) Cable information regarding instructions received by representatives of other powers, and of Great Britain in particular.

(4) How far has Persian Government gone in giving publicity to its *démarche*?

KELLOGG

791.003/26

The Minister in Persia (Philip) to the Secretary of State

No. 348

TEHERAN, May 17, 1927.

[Received June 15.]

SIR: I have the honor to confirm my cable messages Nos. 26, 27 and 28 of May 10—7 p. m., May 13—11 p. m. and May 14—3 p. m., respectively, in relation to the action taken by the Persian Government in denouncing all its treaties with foreign powers which provide for the exercise of consular jurisdiction and extra-territorial privileges on behalf of foreign nationals in Persia. In this connection I beg to transmit herewith a translation of the note received by me from the Acting Minister of Foreign Affairs under date of the 10th instant (No. 1845/74), which was forwarded to the Department in my above cable No. 26.

The receipt of this note was not fore shadowed by any advance intimations to the foreign representatives and came as a decided surprise, in spite of the public utterance by the Shah on the 26th of April last (My No. 19 of April 27—12 noon). Although a number of my colleagues appeared to anticipate early action by the Persian Government, following the Shah's statement, I had reason to suppose that this would not be taken without mature consideration and a more thorough attempt to establish a judiciary better calculated to inspire confidence than that now existing.

However, it would appear that the conversation with Abdul Hussein Teimourtache, Minister of the Court, reported in my despatch No. 329 of April 30th last, was more authoritative than I had judged at the time. My British colleague, indeed, seems to be of the opinion that Teimourtache has been chiefly instrumental in bringing about this decisive step by the Government toward the abolition of the capitulations. Others also believe his advice in this and many other matters to have great effect upon the Shah's decisions.

On the 11th instant I had a talk with Mirza Fat'hollah Khan

Pakrevan, Acting Minister of Foreign Affairs, a memorandum of which I have also the honor to transmit herewith.³⁴

With regard to Mr. Pakrevan's statements respecting the desire here for an abrupt and immediate termination of all capitulatory treaties (page 2 paragraph 1 of enclosure), I infer that such a step may have been favored among the more violent politicians here and, possibly, by the Shah also. Although the action taken by the Government in denouncing the treaties has been received with unanimous approval by the press of Teheran, there has been little indication of any particular enthusiasm on the subject in the provinces, or outside of political circles.

Several references have been made to me in conversations with various people in regard to the probability of assurances having been given by Persia, both to the Soviet and to Turkey, at the time of initial agreements for the renunciation of the capitulatory privileges of their nationals, that Persia would follow their lead at an early date, and would abolish such rights for all foreigners.

Although I have been unable as yet to ascertain that such assurances were given officially, my information points to the probability that Persia has been urged to this step by the Soviet and by the Turkish Governments.

In all probability the Shah has found in it a most welcome gesture by which to demonstrate his patriotic zeal for the welfare of his country and, at the same time, to create a favorable impression upon the Soviet.

In the first case the enhancement of his prestige will result and, in the second, added force possibly acquired in connection with the Persian demands in the pending negotiations with the Russians—through the ability to point to this independent gesture toward the capitalistic powers.

Among other causes which might be cited as possibly having led up to the decision taken by the Persian Government are the recent conclusion of the Persian-Polish Treaty of Friendship and Commerce³⁵ which eliminates the question of consular jurisdiction; the pending negotiations for a treaty with Japan, in connection with which that Government is believed to have insisted upon the extension of capitulatory rights to Japanese subjects, the successful examples of Afghanistan and Turkey, . . . and the actual events now taking place in China.

While it cannot be said, I think, that any one of these circumstances has given rise to the Persian action, doubtless all have had an influence upon it, one way or another.

³⁴ Not printed.

³⁵ Treaties of March 19, 1927, between Persia and Poland, *British and Foreign State Papers*, pt. II, vol. cxxix, pp. 880, 882.

As an immediate result of the denunciation of the treaties of the most favored nations, a diplomatic meeting of the representatives of those nations was held at the German Legation on the 13th instant. There were present the Ministers of Belgium, Germany, Great Britain, Italy and the United States; the *Chargés d'Affaires* of France and Holland. I understand that these representatives, among them, are in charge of the interests of practically all of the treaty powers concerned.

The British Minister handed to each of those present a translation of a note he had received from the Persian Foreign Office, dated the 12th instant, a copy of which I have the honor to transmit to the Department herewith.³⁶

This note informs the British Minister of the action taken by the Persian Government in denouncing all treaties which carry with them capitulatory privileges and states its willingness to enter into negotiations for new treaties during the year ending May 10, 1928. It goes on to state that the Government had notified the French Legation that its treaties with France and Spain, being in perpetuity, could be abrogated at any time by either party, and that it had cancelled those treaties on the same date as those of other powers. The note concludes with the statement that, as consular jurisdiction and privileges hitherto enjoyed by foreign nationals in Persia will cease to exist on May 10, 1928, the nationals of the British and other Governments who only enjoy them on the principle of "most-favored-nation treatment [""] will not benefit by them after that date.

The business of the diplomatic meeting was chiefly limited to a discussion of the situation resulting from the action taken by the Persian Government. It was generally conceded by all those present that there was no occasion for action in the matter by the foreign representatives here unless under instructions from their governments.

The Italian Minister stated that in his opinion there were three means of meeting the situation open to the foreign powers enjoying capitulatory rights in Persia. These were: (1) a refusal to accept the decision by the Persian Government, (2) a complete acquiescence and (3) the expression of a friendly desire to take the question under consideration. All agreed with this, and all expressed themselves in favor of the course last mentioned.

The question was then raised as to the propriety of acknowledging the notes from the Persian Foreign Office which announced the abolition of the capitulations. Some of my colleagues proposed the drawing up of an identical note to the Persian Government to be submitted to the approval of all Governments concerned. I said that I was disinclined to join this proposal, but intimated that I desired to obtain the consensus of opinion among all my colleagues, and that I would

³⁶ Not printed.

take part in a joint preliminary recommendation to the powers as a means of indicating that opinion. . . .

Apart from this, my colleagues appeared to consider that no serious disadvantages seemed to be involved by the determination of Persia to get rid of the capitulations.

The French *Chargé d'Affaires* did not appear disposed to accept the view of the Persian Government as to its right to denounce the French Treaty of 1855 at any time, . . . I gathered from the attitude of my French and British colleagues respecting this question that they anticipated some protest by the French Government on this point. The French *Chargé d'Affaires* mentioned also that he, as being in charge of the interests of the Spanish Government in Persia, had received the Foreign Office note addressed to that Power. No one was able to cite a precedent to establish the Persian attitude in the matter of "perpetual" treaties, though the *Chargé d'Affaires* of the Netherlands expressed the belief that Turkey had at a recent date summarily denounced a treaty of this category with his Government.

It was suggested, as a means of informing the powers interested as to the general attitude of the foreign representatives in Teheran, to draw up a joint, tentative recommendation upon which a preliminary acknowledgment of the note of the 10th instant, be based. This draft, of which I have the honor to transmit a translation and a copy herewith,³⁷ was approved by all those present, myself included. It was unanimously agreed that a request for precise information as to new codes of justice and the organization of the courts destined to replace foreign consular jurisdiction would be necessary as a prelude to a serious consideration of the question. At the same time it was thought by the representatives that the rendering of such pertinent information will be a most difficult matter for the Persian Government, and will in all probability involve a salutary delay.

The French *Chargé d'Affaires* remarked that, while he entirely concurred in the proposal and would submit it to his Government, it was quite possible under the circumstances that a different form of acknowledgment of the note received by him might be decided upon.

I have been not a little surprised at the philosophical calm with which this denouncement of existing treaties has been received by the representatives of European powers in Teheran, as well as among the nationals of those powers. I find in this an indication that such

³⁷ For English text of draft, see telegram No. 28, May 14, from the Minister in Persia, p. 576.

a change would bring about little fundamental change in or disturbance of the trend of foreign business intercourse with Persia.

It is true that many obvious hypothetical sources of inconvenience and of undesirable situations as regards the interests of foreigners might be cited as likely to arise from the abolition of the capitulations. It is most unlikely, in my opinion, that Great Britain, for instance, is prepared to submit to this change without the strongest protest, unless some special protection is guaranteed to the many British subjects in Persia.

From our own view point, the missionary interests in the country and the immunity from Persian methods of justice of the members of the Financial Mission are perhaps the most impressive at this time. I have not heard any positive expressions of adverse opinion on the part of our Missionaries as yet. In a talk with Doctor Mills-paugh shortly after the announcement of the Persian Government's decision, he expressed some dissatisfaction with the proposal. He inferred that it might conceivably render it possible for the enemies of the Mission to attack it, . . . I asked him if he thought it would be possible to have included in a new contract some provision for such immunity from arrest as that extended to the deputies, or other chief officials of the Government. He did not seem to think such a suggestion would be accepted. The remarks mentioned here were entirely informal and were made without any prior consideration of the subject.

On the whole, I am inclined to the opinion that there is very little to be done by us to alter the outcome of the chief question at issue. The Persian Government has acted in conformity with its legal rights in denouncing its treaty with the United States. Also, it can be admitted, I think, that our Government will be heartily inclined to sympathize with the ambitions of Persia in this connection. It may likewise be remarked that the conditions in other countries, in the Balkans and elsewhere, which afford types of judiciaries no more admirable than does Persia, and where the advantages of consular jurisdiction do not exist, are not such as to discourage international relations on that account alone.

I would therefore be of the opinion that our Government should stand ready to take the lead in demonstrating its desire to bring about the end desired by Persia, and its readiness to open negotiations for a new understanding, as soon as it becomes clear that the present movement in Persia is an entirely serious one. I beg to mention that the absence of comment and demonstration among the people as a result of the Government's action up to the present

seems to me to border on the uncanny. No real popular enthusiasm has been occasioned by this important gesture as yet. On the other hand, there seems to be a growing sense of doubt as to the efficacy of the reforms instituted in the judiciary by Mirza Ali Akbar Khan Davar.

I am told that Davar proposes to engage the services of four foreign legal experts (preferably French) whose duty it will be to supervise and perfect the administration of the judiciary throughout the country. I do not understand that any definite steps have been taken to this end as yet, and possibly it is contemplated as a means of demonstrating an earnest desire to bring about real improvements, and as a preliminary to a refusal to contemplate the establishment of a mixed court in Persia.

The subject of probable negotiations for a new treaty with Persia is an interesting one. I have gathered that the Persian Government has the intention of deleting the "most favored nation" clause from its future treaties with foreign governments. One point that suggests itself to me as requiring attention in connection with any new pact arranged with this Government is that of the recognition by Persia of the nationality of American naturalized citizens of Persian origin. The existing situation in that respect is very unsatisfactory.

The policy adopted by Persia in the matter of the denunciation of the treaties appears to be as follows: All foreign treaties providing for capitulatory rights and most favored nation treatment to be denounced—excepting those with Great Britain. The Treaty of Peace of 1857 between this Power and Persia²⁸ is, amicably, non-denounceable—also it provides for extension of "Most-Favored-Nation-Treatment", but not for consular jurisdiction, etc. Therefore the Persian Government believes that, by abrogating all other treaties which grant such rights, Great Britain will "ipso facto" be deprived of them. The argument that Persia has not at the present time a dependable and organized establishment for the administration of justice is met by the reply that the Government is using every means at its disposal to bring about such reforms, but that it is quite within its rights in taking steps to abolish the capitulations. Unless I am greatly mistaken, Great Britain will strongly advise France to protest against the denouncing of the French Treaty on the grounds of its being "in perpetuity". The Persian Government insists that its action in regard to the French Treaty is entirely justifiable.

I have [etc.]

HOFFMAN PHILIP

²⁸ *British and Foreign State Papers*, vol. XLVII, p. 42.

791.003/17 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, May 18, 1927—6 p. m.

[Received May 18—12:41 p. m.]

30. Department's telegram number 20 of May 17, 6 p. m.³⁹ No replies have been received as yet by the majority of my colleagues to their identical suggestions, though the Italian representative had received previous instructions to acknowledge the Persian Government's note of May 10⁴⁰ in similar terms.

It is my intention to send at once the acknowledgment outlined in the first paragraph of the Department's telegram number 19, May 16. It is my belief that action of this sort taken independently and at once will have a better effect than collectively or at a later time and that it does not in any way commit our Government. I would like renewed authorization to follow this course.

PHILIP

791.003/17 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, May 18, 1927—5 p. m.

21. With reference to your telegram number 30 of May 18, 6 p. m., you are authorized to transmit to the Persian Government at once the note contained in paragraph number 1 of the Department's telegram number 19 of May 16, 3 p. m.

KELLOGG

791.003/21 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, May 23, 1927—noon.

[Received May 23—10:33 a. m.]

35. Note bearing date of May 17 has been delivered to Persian Government in accordance with Department's instruction No. 22 of May 21.⁴¹ My trip to Tabriz has been postponed.

PHILIP

³⁹ Not printed.

⁴⁰ See telegram No. 26, May 10, from the Minister in Persia, p. 574.

⁴¹ Not printed; but see Department's telegram No. 21, May 18, *supra*.

791.003/37

The Minister in Persia (Philip) to the Secretary of State

No. 374

TEHERAN, June 18, 1927.

[Received July 13.]

SIR: I have the honor to supplement my despatch No. 373 of the 17th instant by reporting that I had a confidential conversation with Mehdi Gholi Khan Hedayat (Mokhber-os-Saltaneh), the newly appointed Prime Minister, on that date.

With regard to the Government's action in denouncing the capitulatory treaties, Mr. Hedayat asserted, in effect, that Persia had taken this step with the firm intention of ridding herself of the special foreign privileges involved which were deemed obnoxious in the light of her desire to achieve complete independence and the right of self determination. He further declared that in taking this action Persia had been in no way influenced by the Soviet . . . or by Turkey; neither had the events in China any bearing upon this action. The Prime Minister went on to say that there existed, doubtless, foreign interests which oppose this decision on Persia's part for reasons other than those of a desire for justice and the safety of the rights of their nationals.

Leaving aside such hypotheses, he assured me that Persia in this matter sought only what she considered her right. This she hoped to achieve in all friendliness and with the assistance of the friendly powers. Should it be necessary, however, to sever relations with any treaty power which refused to acknowledge the position assumed by Persia, the latter to its great regret would feel obliged to take such a step. I understood that the Prime Minister alluded to the question of the Treaties with France and Spain when making these remarks. He went on to say that the civil code of Persia was a good one, fundamentally, though based on the principles of Islam and lacking in some requirements to meet modern conditions.

It was hoped, however, to prepare a translation of this and other codes of law within the ensuing year and, in the meantime, Persia would earnestly await suggestions from the treaty powers in the matter of opening negotiations for new treaties.

I asked Mr. Hedayat if he thought, in consideration of the comparatively short time available for the reorganization of the judiciary, new treaty negotiations, etc., the Government would be favorably inclined to extend the period of validity of the various treaties after May 10, 1928. He said he could not give such an assurance at the present time, but that he felt convinced that when the good faith and earnest desire of Persia were more fully appreciated all would be amicably arranged.

I am inclined to the opinion that Persia has taken the step mentioned in a spirit of enthusiastic expectancy rather than in one of matured consideration. Probably it has been calculated that a bold denouncement of the treaties would precipitate a discussion and bring about the desired end more quickly than other means. Also it may have been considered that such a gesture would tend to impress the Soviet at a crucial moment when it is hoped that a favorable commercial understanding with that Government might be arrived at.

Whatever be the actuating causes of Persia's decision, I feel now that our Government might do well to take the lead in frankly meeting the situation in a spirit of friendliness and, possibly, in demonstrating its willingness to open negotiations for a new treaty without in any way committing itself on the subject of capitulatory privileges. I am not advancing this as a definite suggestion but merely as a possible subject for the Department's consideration.

I neglected to mention in my preceding despatch above cited that the British Minister spoke of having suggested to Prince Firouz the possibility that France might submit the question of the denouncement of her perpetual treaty with Persia to the Council of the League of Nations, of which Persia also is a member—the inference being that the decision of that body would undoubtedly be in favor of France, as a necessary party to any friendly denouncement.

I have [etc.]

HOFFMAN PHILIP

791.003/31 : Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHERAN, June 22, 1927—noon.

[Received June 22—9:05 a. m.]

42. My 35, May 23, noon.

1. A reply dated the 20th instant has been received from the Persian Government to my note of May 17th last. It expresses firstly, happiness and gratitude for the good will of the American Government respecting the decision of the Persian Government and invites attention to the following points:

(1) The right of both parties to terminate the treaty of 1856 is not contingent on any conditions whatever and each is entitled to take such action at any time. Therefore, as stated in the previous note, the Persian Government has denounced the treaty on May 10, 1927. "It is the intention of the Persian Government in future not to grant to any government the aggregate [*aggregation*] of the rights and privileges known as capitulatory rights, but it is at the same time the height of its desire that, the [*sic*] within the one-year period in which the treaty still holds [good], an agreement be reached for a new treaty," et cetera.

(2) "The reform and completion of the laws and of judicial affairs of the country, which are considered to be internal affairs of the

country, and to which the Persian Government is giving thorough consideration, will have no connection with the denouncement of former treaties and the consummation of new ones in the future.

In consideration of the foregoing points and in view of the ties of friendship and the cordial relations that have existed between the two Governments, it is sincerely hoped that, as intimated in your answering letter, the officials of Your Excellency's Government will soon take action] for the consummation of a new treaty."

[2] The German Minister has received identical note. He contemplates informal note to the effect that the information desired by his Government is considered essential as a preliminary to negotiating a new treaty.

PHILIP

791.003/31 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, June 24, 1927—4 p. m.

28. Legation's 42, of June 22. You should address informal communication to the Persian Government in following sense, unless in your view there are objections to style or substance:

(1) This Government is not inclined to dispute privilege of Persian Government to declare its intention to terminate treaty of 1856 under provision of article 8; neither will this Government contend that validity of such declaration is subject to conditions of any sort.

(2) In order that this Government may be in position to give entirely sympathetic consideration to questions raised in Persian Government's note of May 10,⁴³ the information asked for in Legation's note of May 17⁴⁴ is deemed indispensable. This Government would feel the deepest regret if for want of positive and authoritative information it should, for example, find itself unprepared to accord due value to the projects of immediate reorganization which, it is understood, are being matured by the Persian Government.

KELLOGG

791.003/38

The Minister in Persia (Philip) to the Secretary of State

No. 380

TEHERAN, June 28, 1927.

[Received August 5.]

SIR: I have the honor to confirm the receipt of the Department's telegraphic instruction No. 28 of June 24—4 p. m., which authorized me to reply informally to a note received from the Persian Acting

⁴³ See telegram No. 26, May 10, from the Minister in Persia, p. 574.

⁴⁴ See telegram No. 19, May 16, to the Minister in Persia, p. 576.

Minister of Foreign Affairs, dated the 20th instant, on the subject of the abrogation of the Treaty of 1856 between the United States and Persia and the intention of the Persian Government to abolish all capitulatory rights and privileges on May 10, 1928.

I have the honor to transmit herewith a translation of the above mentioned Persian note of the 20th instant, together with a copy of my reply thereto of the 26th instant, which I hope will meet with the Department's approval.

I am glad the Department deemed it advisable to take this action, for it seems timely and proper for our Government to demonstrate plainly its attitude in the matter brought up by the Persian Government. I have not been agreeably impressed by the methods adopted by that Government in the matter and, much as I sympathize with such a national desire as that which is to be inferred from its gesture, in the large, I feel that its manner of treating the subject has denoted a certain lack of consideration for and confidence in the friendship ever manifested by the United States. What I have instinctively felt in this connection may be the outcome of an attitude assumed by Persia with the idea of impressing all the powers with the seriousness of her determination—and a consequent reaction of self consciousness in the act. But I think, in the absence of any special indications of regard for our interests, it is well for our Government to maintain its attitude of firmness and reserve for the time being.

It is, perhaps, superfluous for me to mention that the information requested of the Persian Government respecting the details of the judicial establishment, etc., with which it is intended to replace the consular courts of the various treaty powers, would be exceedingly difficult to supply at this juncture. Apart from the untried results of the feverish activities of Mirza Ali Akbar Davar, Minister of Justice, to institute reforms in the judiciary, there is but little evidence of the existence of any fundamental modernization of judicial procedure in Persia.

Furthermore, the recent action of the Government in transferring the jurisdiction of the Kargozariats, or "Foreign Office Tribunals", throughout the country from the Ministry of Foreign Affairs to that of the Ministry of the Interior has not decreased the feeling of uneasiness relative to the protection of the interests of foreign nationals.

On the 21st instant, my German colleague called upon me and stated that he had received from the Acting Minister of Foreign Affairs a note similar to that addressed to me on the 20th instant. He said our Belgian colleague was away, but he understood that a like communication had been addressed to him. He said he thought the Persian communication unsatisfactory and that our Governments should insist upon their requests for information upon which to base

their consideration of the question of negotiations for new treaties. Count Schulenburg said he had already explained to the Acting Foreign Minister that it is most probable his Government will wish to select experts to participate in possible treaty negotiations in Teheran.

Prior to doing this, his Government desires authentic data as to what conditions will replace those now existing in the matter of justice for its nationals, etc. He said he contemplated acknowledging informally the Acting Foreign Minister's note and at the same time reiterating his Government's request for the information desired.

I have not yet learned whether the German Minister took this action, or what action has been taken by the Belgian Minister.

There does not appear to have been any further development in the situation, as between Persia and the other powers interested.

I have [etc.]

HOFFMAN PHILIP

[Enclosure 1—Translation]

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)

No. 3644/216

Khordad 29, 1306/June 20, 1927.

MR. MINISTER: I have the honor to acknowledge the receipt of Your Excellency's note No. 182 of May 17, 1927,⁴⁵ taking cognizance of the note presented by the Ministry for Foreign Affairs under No. 1845/74 of Ordibehesht 19, 1306 (May 10, 1927). In reply I find it necessary to express my happiness and gratitude for the good will of Your Excellency's Government with regard to the decision of the Persian Government and to invite your attention to the following points:

1. The right of termination anticipated for both parties in the Treaty of 1856 is not contingent on any condition of any nature and authorized both parties after the expiration of the period of the treaty to take action for its termination at any time they desire.

Therefore, as pointed out in the previous note, the aforesaid treaty is denounced on Ordibehesht 19, 1306 (May 10, 1927), the date when the Persian Government has exercised its right of denouncement. It is the intention of the Persian Government in future not to grant to any Government the aggregation of the rights and privileges known as capitulatory rights, but it is at the same time the height of its desire that, within the one year period in which the treaty still holds good, an agreement be reached for the consummation of a new treaty, so that from May 10, 1928, the treaty relations between the two Governments should not become non-existent.

2. The reform and completion of the laws and of the judicial affairs of the country which are considered to be internal affairs

⁴⁵ See telegram No. 19, May 16, to the Minister in Persia, p. 576.

of the country, and to which the Persian Government is giving thorough consideration, will have no connection with the denouncement of former treaties and the consummation of new ones in the future.

In consideration of the foregoing points and in view of the ties of friendship and the cordial relations that have existed between the two Governments, it is sincerely hoped that as intimated in your answering letter the officials of Your Excellency's Government will soon take action for the consummation of a new treaty.

I avail myself [etc.]

PAKREVAN

[Enclosure 2]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

No. 193

TEHERAN, June 26, 1927.

MY DEAR EXCELLENCY: With regard to Your Excellency's note of the 20th instant, relative to the denouncement by the Imperial Government of its Treaty with the United States and to its intention to abolish capitulatory rights and privileges on May 10, 1928, I beg informally to solicit Your Excellency's kind attention to the following observations.

My Government is in no way disposed to question the right of the Imperial Government to declare its intention to terminate the Treaty of 1856 between Persia and the United States, or to suggest that the validity of such notice is contingent upon any conditions whatever.

My Government finds that the information requested in my note of May 17th last, is necessary to it for the sympathetic consideration, which it hopes to be able to accord, of the several questions raised by Your Excellency's note of May 10th last.

In this last connection, I beg to take this opportunity of suggesting that it would be regrettable, for instance, if my Government, owing to the lack of information from authentic sources, should find itself unable to give the weight it would otherwise wish to the changes it understands the Imperial Government purposes to initiate in the near future.

Please accept [etc.]

HOFFMAN PHILIP

791.003/39

The Minister in Persia (Philip) to the Secretary of State

No. 390

TEHERAN, July 15, 1927.

[Received August 15.]

SIR: In the course of an interview with the Shah on the 8th instant (resumé of which was transmitted with my despatch No.

389 of July 15, 1927),⁴⁷ I have the honor to report that I touched upon the question of the intended abolition of capitulations in Persia and the treaty situation resulting therefrom.

The Shah seemed to derive much pleasure and relief from my statement that our Government regarded the desire of Persia in this matter with sympathy and that it was desirous of meeting the new situation in a friendly and helpful spirit.

The Shah turned suddenly and grasped my hand with an expression of thanks at this juncture. It has occurred to me, on subsequent consideration, that this impulsive action on the part of one who is usually so devoid of demonstration may have arisen from prior ignorance of the actual comments by our Government as a result of Persia's announced intention.

So persistent are the reports of intrigue to which the Shah is subjected, that I am quite prepared to believe that the attitude of our Government in this connection had been misrepresented to him by those interested in creating a feeling of indifference for the friendship of the United States.

I went on to state that before entering into the proposed negotiations for a new treaty, our Government had expressed a desire to be furnished with information relative to the actual state of the judicial system in Persia with which it is proposed to supplant the consular jurisdiction hitherto at the disposal of foreign nationals. I said that if the Persian Government is prepared to be perfectly frank with our Government in meeting this request and in representing the situation as it actually exists, I felt confident that this will constitute an important step toward the end desired. The Shah promised to give instructions that information should be collected and furnished. He added that he felt assured of the friendship of the United States and that, should our Government take the lead in this matter, it would greatly enhance American prestige in Persia, etc. He went on to say that, in spite of certain difficulties which had been presented in connection with the denouncement of the treaty with France, that Government had intimated its friendly desire to reach an understanding.

The attitude of the French Chargé d'Affaires here has not indicated that any assurances of the kind have been given and he has not conferred with me directly in regard to the attitude of our Government. I am interested to note, however, the reports concerning the French attitude embodied in the Department's cable instruction No. 34 of July 13, 6 p. m.⁴⁷

The British Minister does not lose an opportunity of expressing his conviction as to the necessity of providing for consular assistance

⁴⁷ Not printed.

in connection with the arrest and prosecution of foreign nationals, marriages of such nationals, administration of the estates of foreign nationals, etc.

My German and Belgian colleagues reflect the willingness of their Governments to accept the situation but at the same time to insist upon the matter of the request for detailed information.

I have the honor to transmit herewith a translation of a *note verbale* from the Persian Ministry for Foreign Affairs, dated the 13th instant,⁴⁸ which announces the dissolution of Kargozariats, or legal representatives of the Foreign Office in the provinces. The duties of these officials, which are chiefly concerned with the interests of foreign nationals under the existing treaties, will be assumed, it is stated, by the Governors and Governors-General until May 10, 1928.

It has been variously reported that these Kargozariats, which I do not understand are to be considered as being called for by the capitulatory treaties, but as having been established as a result of them, were to be transferred from the Foreign Office to the Ministries of Interior and to that of Justice.

The present announcement is evidently intended as an indication of the Government's intention to terminate the capitulatory régime on the date mentioned.

I have not yet been able to ascertain whether this action will entail disadvantages for American citizens in this country.

I have [etc.]

HOFFMAN PHILIP

⁴⁸ Not printed.

PERU

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND PERU

711.232/-

The Secretary of State to the Chargé in Peru (Wadsworth)

No. 363

WASHINGTON, August 19, 1927.

SIR: This Government has, as you are aware, entered upon the policy of negotiating with other countries general treaties of friendship, commerce and consular rights, of which the central principle in respect of commerce is an unconditional most-favored-nation clause governing customs and related matters.¹ This policy was inaugurated pursuant to the principles underlying Section 317 of the Tariff Act of 1922;² it seeks assurances that equality of treatment for American commerce will be maintained in all countries.

Besides the provisions relating to commerce those treaties include provisions relating to rights of nationals of each country in the other country, protection of property and rights and immunities of consuls. This Government now desires to enter into such a treaty with Peru.

The first treaty to become effective expressing the present policy of this Government was the Treaty of Friendship, Commerce and Consular Rights with Germany, signed December 8, 1923, ratifications of which were exchanged October 14, 1925.³ Similar treaties have been signed by the United States with Hungary, Esthonia and Salvador, of which those with Esthonia and with Hungary have been brought into force by exchange of ratifications.

A treaty containing the unconditional most-favored-nation clause was signed with Turkey on August 6, 1923. About a dozen other treaties containing such a clause are now in process of negotiation. *Modi vivendi* based upon the same principle, entered into with the following countries, are in force—Brazil, Czechoslovakia, Dominican Republic, Finland, Greece, Guatemala, Haiti, Latvia, Lithuania, Nicaragua, Poland (including Danzig), Rumania and Turkey.

Two copies of the treaty of December 8, 1923, with Germany are enclosed.⁴ You are requested, unless you perceive objection, to in-

¹ See *Foreign Relations*, 1923, vol. I, pp. 121 ff.

² 42 Stat. 858, 944.

³ For treaties and *modi vivendi* referred to in this instruction and not cited therein, see footnotes to similar instruction, No. 1162, Aug. 21, 1926, to the Ambassador in Brazil, *Foreign Relations*, 1926, vol. I, p. 569.

⁴ *Ibid.*, 1923, vol. II, p. 29.

quire whether it would be agreeable to the Government of Peru to proceed to the negotiation with the United States of a similar treaty. A special draft will, of course, be prepared for presentation to Peru if this proposal is acceptable to the Peruvian Government. It is probable that certain departures from the text of the German treaty should be made either in the special text to be submitted to the Government of Peru or, on behalf of either party, during the course of negotiations. In view of the existence of the Convention and Protocol Facilitating the Work of Traveling Salesmen entered into by the United States and Peru on January 19, 1923,⁵ Articles XIV and XV of the German treaty would be omitted in a draft treaty presented to Peru.

It would be gratifying if, among its early treaties embodying the principle of unconditional most-favored-nation treatment, the United States could celebrate a general commercial treaty with Peru. The lack of such a treaty with Peru since the Treaty of Friendship, Commerce and Navigation, concluded August 31, 1887,⁶ was terminated on November 1, 1899, is a matter of regret to this Government and it hopes that a comprehensive modern agreement may now be entered into. You will of course keep in mind in this connection that a most-favored-nation clause with a condition, such as that contained in Article III of the treaty of September 6, 1870,⁷ between this country and Peru would not now be acceptable to the United States.

For your confidential information, though the Department, in proposing a treaty with Peru, is influenced chiefly by its policy of concluding with other countries generally treaties containing the unconditional most-favored-nation clause, you are nevertheless desired to use especial diligence in seeking a favorable response from the Peruvian Government in order to forestall any efforts that other countries may be planning to make for the purpose of interposing in South America arrangements based upon special privilege—a policy wholly antagonistic to the policy of equality of treatment which the United States is undertaking to promote. You may recall in this connection that in 1923 this Government renounced the preferential customs treatment which certain American products had been receiving in Brazil and requested instead a pledge of equal footing with other countries in the Brazilian market.⁸

For your further confidential information and guidance, the Department was informed some time ago that there was a movement on

⁵ See *Foreign Relations*, 1919, vol. I, p. 45, footnote 47; Malloy, *Treaties*, 1910-1923, vol. III, p. 2800.

⁶ Malloy, *Treaties*, 1776-1909, vol. II, p. 1431.

⁷ *Ibid.*, pp. 1414, 1415.

⁸ See *Foreign Relations*, 1923, vol. I, pp. 453 ff.

the part of Spain to seek from the countries of Latin America special commercial concessions in return for certain advantages to be accorded to their commerce in Spain. In this connection see the Department's circular instruction dated April 19, 1926.⁹

The Department either has transmitted or expects at an early date to transmit instructions, similar to the present instruction, to the American missions in the other South American capitals except Ecuador, the political regime now functioning in which is not recognized by the United States, and, at least for the present, Panama, with which an important treaty of a different kind still remains pending.¹⁰

I am [etc.]

FRANK B. KELLOGG

711.232/3 : Telegram

The Chargé in Peru (Boal) to the Secretary of State

[Paraphrase]

LIMA, September 17, 1927—11 a. m.

[Received 8 p. m.]

43. Embassy's telegram number 42 of September 12.¹¹ Received note from Foreign Office today which states that the Government of Peru is willing to negotiate treaty as soon as possible. The note adds that Peru desires that in the proposed treaty we grant to Peruvian sugar the same treatment which is now conceded to Cuban sugar. Will the Department please telegraph me its views for my confidential information and guidance before negotiations start? Texts of notes exchanged will go forward in next pouch.¹²

BOAL

711.232/3 : Telegram

The Acting Secretary of State to the Chargé in Peru (Boal)

[Paraphrase]

WASHINGTON, September 29, 1927—6 p. m.

32. Embassy's telegram number 43 of September 17, 11 a. m.

1. In connection with the adjustment of relations between Cuba and the United States following the Spanish-American War a commercial convention was signed.¹² In Article 8 of that convention it was agreed that the reciprocal treatment accorded by the convention should be preferential in regard to all other countries. This agree-

⁹ Not printed.

¹⁰ i. e., the unperfected treaty between the United States and Panama, signed July 28, 1926. See *ante*, pp. 484 ff.; also *Foreign Relations*, 1926, vol. II, pp. 828 ff.

¹¹ Not printed.

¹² Signed at Havana, Dec. 11, 1902, *Foreign Relations*, 1903, p. 375.

ment occupies an exceptional place in the commercial relations of Cuba and the United States.

2. This country has declined the proposals of several countries to conclude reciprocity conventions similar to the above-mentioned convention. It makes an exception of this convention from the most-favored-nation provision (Article 7) in the treaty with Germany, and the treaties with other countries. The United States cannot make an exception to the policy in these treaties such as would be involved in granting to Peruvian sugar the same treatment now conceded to Cuban sugar.

3. When the time seems opportune the Department desires you to bring the foregoing to the attention of the Peruvian Government and endeavor to reach an agreement with that Government to enter upon negotiations for a treaty based upon an unconditional most-favored-nation treatment of commerce without special privileges or concessions by either government which is the basis of commercial agreements between the United States and many countries now in force and under negotiation.

CARR

11.232/6 : Telegram

The Chargé in Peru (Boal) to the Secretary of State

[Paraphrase]

LIMA, October 5, 1927—4 p. m.

[Received October 8—6:30 p. m.]

47. Department's telegram number 32 dated September 29, 6 p. m.

1. On the first of October I took up with the Foreign Minister substance of paragraphs 1 and 2 of Department's telegram number 32, September 29, 6 p. m. After he had consulted with the President, Foreign Minister told me that Peru was willing to continue negotiations without regard to the inability of the United States to give Peruvian sugar the same treatment now given Cuban sugar. Foreign Minister added that they were now making a careful study of the treaty between the United States and Germany with this end in view.

2. Yesterday I had a conversation with the President on this subject. He stated that Peru would be glad to enter into negotiations, and would set aside for the present their request for special treatment for Peruvian sugar. . . .

3. He then made the suggestion that when the convention with Cuba terminated it might be possible for the United States to grant Peruvian sugar better treatment. He asserted that, if occasion arose, Peru would soon be in a position to furnish the United States with as much sugar as did Cuba. I indicated to him the existence of other

agreements some of which were with countries in the Western Hemisphere, and near the United States, which did not contain provisions for any special privileges, and stated that the refusal of special privileges to these nations would obviously preclude conceding them to Peru. I stated that the treaty between the United States and Cuba was of long standing, that it had been concluded in view of the special relations between the two countries following the war with Spain, and I intimated that even should the treaty be terminated, as he expected, it would be unlikely that the United States would enter into such agreements with other nations. The President replied that he hoped, nevertheless, that if the convention with Cuba were terminated, the United States, in the light of the new situation which would be the result, could see its way clear to grant advantages to Peruvian sugar. In the meantime, however, he was quite prepared, as he had said before, to set aside the sugar question entirely and negotiate the treaty on the principle of unconditional most-favored-nation treatment.

4. I gained the impression that the President is inclined to keep this point in view for possible use in bargaining in this or other matters, but will be willing at the appropriate time, unless Peru's attitude toward the United States changes, to conclude a treaty on the basis of unconditional most-favored-nation treatment. I believe, however, that if the Department anticipates continuing in force article 8 and the preferential treatment of Cuban sugar, it would help and possibly obviate delay, if the President could be informed of the bases for such expectation. I am trying to secure a written statement of the attitude of the Government of Peru with respect to negotiations.

BOAL

711.232/6: Telegram

The Secretary of State to the Chargé in Peru (Boal)

[Paraphrase]

WASHINGTON, October 14, 1927—1 p. m.

36. Embassy's despatch No. 817, September 20,¹³ and telegram No. 47, October 5, 4 p. m.

1. The Government of the United States is gratified that the Government of Peru is prepared to set aside entirely the matter of giving to Peruvian sugar the treatment accorded Cuban sugar by the United States and to enter into negotiations for an unconditional most-favored-nation treaty.

2. A draft of a treaty is now being prepared and will be sent to you soon.¹⁴

¹³ Not printed.

¹⁴ Enclosed with instruction No. 384, Nov. 2, 1927 (not printed) which was the same, *mutatis mutandis*, as instruction No. 788, Nov. 2, 1927, to the Ambassador in Chile, vol. I, p. 524.

3. With reference to your comment that the Government of Peru may feel it an asset to have a treaty pending with the United States at this time in connection with its controversy with Chile, the Department informs you that Chile has expressed its willingness to negotiate a similar treaty with the United States.¹⁵ The Department expects to submit a draft to Chile soon.

4. The Department is giving consideration to the suggestions contained in your despatch and telegram with the object possibly of sending you further instructions.¹⁶

KELLOGG

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 331 ff.)

¹⁵ See vol. I, pp. 517 ff.

¹⁶ Further negotiations failed to result in the signing of a treaty.

POLAND

REQUEST TO THE POLISH GOVERNMENT THAT AMERICAN ARMS MANUFACTURERS BE GIVEN THE SAME CONSIDERATION AS THOSE OF OTHER NATIONS

860c.24/51 : Telegram

The Secretary of State to the Minister in Poland (Pearson)

WASHINGTON, January 5, 1925—4 p. m.

1. For your information. Following received from Embassy London:

"2, January 1, noon. Mr. Nichols, Vice President of Colt firearms, represents to me that his firm has been negotiating a contract with the Polish Government for about three years for furnishing automatic machine rifles involving about ten million dollars, that the Polish Government were practically committed to the contract when the French Government recently intervened on behalf of Hotchkiss of France with the result that it would appear likely that Colts will lose the contract. Price offered by Colts and other conditions thought to be practically the same as Hotchkiss. Matter will be decided by Polish Government between the 5th and 8th of January.

Mr. Nichols asks informal diplomatic intervention through American Minister at Warsaw. Colts have a representative there.

Mr. Nichols would like to be informed of your decision."

Department has replied as follows:

"The Department's general policy in the matter of the sale of arms and munitions of war is outlined in the Monthly Political Report for September, 1923,¹ pages 43 to 45. The Department does not feel that it could appropriately take the action suggested by Mr. Nichols."

HUGHES

860c.24/51 supp. : Telegram

The Secretary of State to the Minister in Poland (Pearson)

[Paraphrase]

WASHINGTON, June 3, 1925—7 p. m.

46. Department's telegram No. 1, dated January 5, 4 p. m. Discreetly ascertain whether contract for the purchase of arms has been concluded by the Government of Poland.

KELLOGG

¹Not printed; but see telegram No. 53, Sept. 12, 1923, to the Minister in Switzerland, *Foreign Relations*, 1923, vol. 1, p. 38, and statement to the press quoted in telegram No. 61, Sept. 27, 1923, to the Minister in Switzerland, *ibid.*, p. 42.

860c.24/53 : Telegram

The Minister in Poland (Pearson) to the Secretary of State

[Paraphrase]

WARSAW, June 4, 1925—6 p. m.

[Received 6:45 p. m.]

43. Department's telegram No. 46, June 4 [3]. On January 17 Polish Government committee adopted Browning automatic rifles. The Warsaw agent of the Colt Company says that the contract will be signed by the end of June despite great opposition French interests. Details of proposed contract given in letter from commercial attaché 215 telegram 5th to Bureau of Foreign and Domestic Commerce.

PEARSON

860c.24/54

The Minister in Poland (Pearson) to the Secretary of State

No. 206

WARSAW, July 3, 1925.

[Received July 28.]

SIR: I have the honor to refer to the Department's telegrams No. 1 January 5, 4 P. M., and No. 46 June 4 [3], 7 P. M. (1925) concerning a contract between the Polish Government and the Colt Arms Company, for furnishing Browning automatic rifles to the Polish Army, and to transmit, herewith, a copy of a Memorandum dated June 24, 1925, from the American Commercial Attache, Mr. Leighton W. Rogers, as follows:

"The matter of the contract with the Colt Arms Co. of Hartford, Conn., for furnishing Browning automatic rifles to the Polish Army, has struck another snag.

"Mr. Rudnicki, the Polish representative, called me on the telephone last night and informed me that after the details of the contract had been argued out for months by himself and the Polish army purchasing authorities, and that after it had been approved by the army authorities, it was taken yesterday to Mr. Grabski for his signature. Mr. Grabski withheld his signature stating that he could not approve of certain important clauses of the contract. Mr. Rudnicki stated that everyone was greatly surprised inasmuch as they had been led to believe that the most difficult part of the negotiations were over. Mr. Rudnicki states that in his opinion the French have been continuing their activities and that through influence which they have with the family of the President of the Republic, they have been working on Mr. Grabski to hold up these negotiations.

"I told Mr. Rudnicki that there is not much that my office can do about it in view of instructions from Washington with which he is already familiar. I send you this memorandum in order to keep you in touch with the progress of the matter, which we have all been watching with interest."

I have [etc.]

ALFRED J. PEARSON

860c.24/54 : Telegram

The Secretary of State to the Minister in Poland (Pearson)

WASHINGTON, August 6, 1925—3 p. m.

70. Your despatch No. 206 of July 3, 1925 regarding negotiations of Colt Company.

In case an opportunity is offered and without intervening in the negotiations Department considers that the situation as reported by you would justify you in orally indicating to the Polish Government that you trust that proper consideration will be shown to the American company concerned.

KELLOGG

860c.24/55

The Minister in Poland (Pearson) to the Secretary of State

No. 238

WARSAW, August 17, 1925.

[Received September 3.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 70 of August 6, 3 P. M., and previous correspondence, with regard to the negotiations between the Polish Government and the Colt Arms Manufacturing Company.

On August 12th the Prime Minister, Mr. Grabski, called on me, and I took the opportunity to take up with him the question of the Colt contract. I stated that it had come to my attention that the Colt company had been negotiating for this contract for a period of eight or nine months; that the Browning automatic rifle had been adopted as the official arm of the Polish Army by a commission of army experts which studied this rifle, and also the arms of the Vickers and Hotchkiss companies; that the Minister of War, General Sikorski, had approved this decision; but that when the contract came up for signature this was withheld due to the recommendation of a man in the office of the Premier, who first gave his views to the effect that the Hotchkiss arm was superior to the Browning rifle; that when this expression of opinion was proclaimed against by army officials, the above mentioned man recommended that the Prime Minister's signature be withheld because the Government did not have sufficient funds to complete such a contract at this time.

I indicated that this treatment of the Colt company might have a deterring effect upon other American companies which might be contemplating doing business in Poland, since the Colt Company had worked for this contract, had apparently gotten it in fair competition, and at the last minute it was withheld due to the recommendation of a person who, up to that time, had had nothing to do with the matter.

I have [etc.]

ALFRED J. PEARSON

860c.24/58

The Minister in Poland (Stetson) to the Secretary of State

No. 404

WARSAW, April 28, 1926.

[Received May 10.]

SIR: I have the honor to refer to my despatch No. 34 of September 16, 1925,² in relation to the negotiations for the sale of arms between the Colt Arms Manufacturing Company and the Polish Government. It appears that the Polish Government has given its unqualified approval of the Browning machine gun and has written to the representative of the Colt Arms Manufacturing Company requesting the submission of new bids on terms other than those considered in the original contract.

It appears that in the original contract it was provided that part of the guns to be ordered was to be manufactured in Hartford, Connecticut, and part in the new plant to be erected in Poland and directed by representatives of the Colt Arms Manufacturing Company.

The present attitude of the Government is to cut down the order and it requests a proposition which provides for the manufacture of guns only in Poland.

Mr. Rudnicki, the local representative of the Colt Arms Manufacturing Company, has requested the Legation to intervene. The present status of the negotiations was carefully considered by the Commercial Attaché and myself and it seems to us that there is nothing which the Legation may properly undertake. The Colt Arms Manufacturing Company was asked to submit bids to the Polish Government and offer samples to prove the performance of their guns. At the time the order consisted of about 10,000 guns. The Polish Government has accepted the Browning gun as the best of those submitted but now wishes to consider a smaller order on different terms from the terms originally discussed. It seems to me that there has been no unfairness or discrimination against the American company in this connection and that because of financial and political reasons the Polish Government wishes to discuss the granting of a contract on different terms from those originally discussed. To intervene in such a connection would in my opinion be a contravention of the Department's instructions issued in telegram No. 70 of August 6, 1925, 3 p. m.

I have [etc.]

JOHN B. STETSON, Jr.

² Not printed.

860c.24/59 : Telegram

The Chargé in Poland (Newson) to the Secretary of State

WARSAW, January 22, 1927—11 a. m.

[Received January 22—9:34 a. m.]

7. Colt agent, Warsaw is attempting to secure orders for 600 aircraft machine guns from Polish war office and asks Legation's immediate assistance.

Am informed strong pressure being brought in favor of Vickers by British Legation here and French military mission supporting Hotchkiss.

Does the Department desire Legation to take action similar to that instructed in Department's telegram 70, August 6, 3 p. m., 1925?

Please instruct by telegram.

NEWSON

860c.24/59 : Telegram

The Secretary of State to the Chargé in Poland (Newson)

WASHINGTON, January 24, 1927—6 p. m.

1. Your 7, January 22, 11 a. m. You may take a suitable occasion to inform the Polish Government that this Government trusts that American competitors for this business will receive the same consideration as that accorded to nationals of any other country in this matter.

KELLOGG

860c.24/59 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

WASHINGTON, June 25, 1927—6 p. m.

24. Mr. Nichols, Vice President of Colt's Patent Fire Arms Manufacturing Company, has informed Department that negotiations have been reopened by his company for sale of arms to Polish Government. If in connection with these negotiations the Legation's assistance is requested by the Colt representative, you may in your discretion take action indicated in Department's #1 of January 24, 6 P. M.

KELLOGG

860c.24/61

The Minister in Poland (Stetson) to the Secretary of State

No. 1163

WARSAW, July 14, 1927.

[Received August 2.]

SIR: With reference to the Department's telegraphic instruction No. 24 of June 25, 1927, I have the honor to transmit the following

information regarding the present status of the negotiations for a contract between the Polish Government and the Fabrique Nationale, of Belgium, and Colt's Patent Firearms Manufacturing Company, of Providence, Rhode Island, for fifty thousand (50,000) Browning machine guns.

After a delay of over a year the Polish Government suddenly informed the Fabrique Nationale of Herbesthal, Belgium, that it was ready to conclude the contract which had been proposed by the Colt's Patent Firearms Manufacturing Company and the Fabrique Nationale in 1925.

Monsieur Joassart, the director of the F. N., came to Warsaw to confer with the local representative of Colt's, Mr. Rudnicki, and to conclude the transaction, if possible. He called upon my Belgian colleague for assistance and also upon me, inasmuch as he was empowered by Colt's to act for them in the transaction.

When the contract was originally proposed, it was the intention of the F. N. and Colt's to establish a factory in Poland for the production of machine guns, to which they would advance \$660,000.00 for the purchase of the necessary machinery. The order called for the manufacture of 42,000 machine guns in Poland and the advance of \$660,000.00 would have been amortized in the price of the guns. Ten thousand machine guns were to be manufactured in Hartford and the necessary technical advice and co-operation was to have been granted by F. N.—Colt's to bring the production of satisfactory machine guns in Poland up to a certain number a week. A guarantee for the performance of this feature of the contract in the sum of \$250,000.00 was to be furnished by Colt's through an indemnity company in the United States. This plan postulated a factory in private hands, the ownership of the machinery resting with Colt's and the administration of the factory being wholly under their direction until the advance should be fully liquidated, the order completed and the manufacturers paid for their products, at which time the factory would pass into the hands of the Polish Government.

The economic development of Poland and the reasonable prospect of the Polish Government obtaining a large and substantial loan from the American banking group caused the manufacturing companies to withdraw their proposal for financial assistance. Another and an important reason for this withdrawal was a change in the point of view of the Polish Government regarding the conditions in Poland under which the guns should be manufactured. The Polish Government has determined that the manufacture of the arms shall be carried on in government arsenals under the management of Polish engineers.

M. Joassart called at the Legation last Monday and stated that all points of difference with respect to the contract had now been ad-

justed, with one exception. Inasmuch as the financial assistance of the American-Belgian manufacturers is withdrawn, the Polish Government asks for a performance guarantee in the sum of \$900,000.00 instead of the original \$250,000.00. This sum on a contract amounting to about \$2,500,000.00 seems greatly exaggerated to the manufacturers, although M. Joassart told me that they were willing to increase the guarantee by fifty per cent, that is, they would furnish an indemnity bond for the performance of contract in the sum of \$375,000.00.

During these negotiations M. Joassart has not asked for our direct intervention, nor does there seem to be any particular reason for it. The tests of the Browning gun have, I believe, proven to the Polish Government that it is the most satisfactory arm made and they seem to be ready to do business.

The chief competitor for the contract, as above stated, is the Hotchkiss Arms Company. I am endeavoring to learn through the American Embassy in Paris the proportion of American capital interested in the Hotchkiss Company. I believe that more than a majority of the stock is held by Americans and if that is the case the intervention or assistance of this post in behalf of either F. N.—Colt's or Hotchkiss is a delicate matter.

The exact proportion of American interest in the contract under discussion has always puzzled me, hence the desire to have definite instructions from the Department as regards the assistance I am expected to render. The Fabrique Nationale, I understand, is the European licensee of the Browning patents owned by the Colt's Patent Firearms Manufacturing Company. There is a license fee of \$17.00 per gun in the contract which calls for 50,000 guns. Ten thousand guns will be manufactured at Hartford or parts at Hartford, parts in Belgium, the assembling to take place in Belgium. At any rate it is probable that the license fee will be divided between the American and the Belgian companies.

The Department will be advised when the contract is finally signed or upon any action which it may seem necessary for me to take in regard to the matter.

I have [etc.]

JOHN B. STETSON, Jr.

860c.24/61

The Secretary of State to the Minister in Poland (Stetson)

No. 453

WASHINGTON, August 16, 1927.

SIR: With reference to your confidential despatch No. 1163 of July 14, 1927, requesting instructions regarding the assistance to be rendered to American companies interested in negotiating for a con-

tract with the Polish Government for the sale of arms, the Department, in the circumstances, desires that if approached in the premises by any other company, you request instructions of the Department as was done in the Legation's telegram No. 7, January 22, 11 a. m., with respect to Colt's Patent Firearms Manufacturing Company.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

860c.24/63

The Minister in Poland (Stetson) to the Secretary of State

No. 1315

WARSAW, November 8, 1927.

[Received November 22.]

SIR: Referring to the negotiations between the Colt's Patent Firearms Manufacturing Company and the Fabrique Nationale d'Armes de Guerre, of Herstal, I have the honor to inform the Department of the present status of those negotiations, bringing the matter up to date since my confidential Despatch No. 1163, of July 14, 1927.

Mr. Joassart, the Director of the Fabrique Nationale, called on me Saturday, November 5th, with the report that Mr. Nichols, Vice President of the Colt Patent Firearms Manufacturing Company, had come to Herstal in reference to the proposed contract for arms with the Polish Government and had refused to accept the results of his (Joassart's) negotiations with the Polish Government, in spite of the fact that he (Joassart) held the power of attorney of the Colt's Patent Firearms Manufacturing Company to act for them in the negotiations with the Polish Government.

The break had come after Mr. Joassart had agreed on a contract with the Polish Government in which the two points which were the last to be settled were, first, the amount of the surety bond to be furnished by the Manufacturing Company, and, second, the length of time for the delivery of the jigs, dies and gauges.

The Colt's Patent Firearms Manufacturing Company found that the conditions accepted by Mr. Joassart were unacceptable to them and cabled him to that effect. A lengthy discussion followed between the Belgian and the American companies regarding the matter, the outcome of which was that the Board of Directors of the Colt's Company rejected the contract as proposed and Mr. Nichols went to Belgium to talk the matter over with Mr. Joassart. While Mr. Nichols was in Belgium he wrote a letter, copy of which is enclosed,³ direct to the Ministry of War of the Polish Government, because of which the Poles have taken offense. They are surprised that the contract

³ Not printed.

as accepted by the recognized agents should have been disqualified by a letter addressed over the head of the agent directly in contact with the Ministry of War. One of the ranking officials of the Ministry of War has asked explanations of this method of doing business of the American Military Attaché. Colonel McKenney made the only possible answer that the Legation had had no information as to the intentions of the Colt Company, but he was certain that the letter carried with it no desire whatsoever of being offensive to the Polish Government.

Mr. Joassart states that he has agreed with Mr. Nichols to continue the negotiations with the Polish Government on his own responsibility, with the hope of concluding a contract with the Polish Government which leaves the Colt Company entirely out of the transaction, except in so far as the Colt Company will profit by the royalties, as is provided in the license contract between the Colt's Patent Firearms Manufacturing Company and the Fabrique Nationale d'Armes. Mr. Joassart added, however, that he must obtain some modifications in the contract, especially as regards deliveries. He feels in honor bound not to induce the Polish Government to change any of the major conditions which he has already accepted, but he is now making every effort to arrange a new set-up for the contract due to the changed conditions.

Mr. Joassart informed me that he is anxious to get this contract because he believes it will lead to more business in the future. At the present moment the Rumanian Government is also considering the purchase of Browning rifles, similar to those in this contract,—Poland and Rumania being united by a military treaty, desire interchangeability of armament. Moreover, the Polish Government is holding tests with tripod machine guns and Mr. Joassart expects the Browning to give the same excellent results in the competition as the rifle. He believes, also, that the Polish military authorities are now so favorably impressed with the Browning principle as applied to firearms, that they will use arms of this manufacture wherever possible. This will include anti-aircraft and other types of light caliber automatic cannons.

On one visit to me, Mr. Joassart had asked the assistance of the Legation in getting a decision on these points, but I told him that they involved the private affairs between purchaser and seller and that for that reason it was impossible for us to take any direct steps in his favor. I have from time to time, as occasion offered itself, spoken with members of the Polish Government in favor of the arms manufactured by the Colt's Patent Firearms Manufacturing Company and have expressed the hope that the results of their tests would be so satisfactory as to induce the Polish Government to accept a con-

tract with this firm even though the price seemed to be higher than those offered by the competing companies.

Viewed from the standpoint of business, I think that the Colt Company is right in refusing the terms of the contract. I myself know enough of this kind of business to see the difficulties of fulfilling the conditions set by the Polish Government, especially at such long range. However, it is to be regretted that their action in disavowing the agent to whom they had given the power of attorney to negotiate at the last moment has created an unfavorable impression with the Polish Ministry of War.

I have [etc.]

JOHN B. STETSON, Jr.

REPRESENTATIONS TO THE POLISH GOVERNMENT FOR INCREASE
IN CONTINGENT ALLOWED FOR IMPORTATION OF AMERICAN
AUTOMOBILES

660c.116/39

The Minister in Poland (Stetson) to the Secretary of State

[Extract]

No. 1125

WARSAW, June 27, 1927.

[Received July 18.]

SIR: I have the honor to report that the situation regarding the importation of American automobiles into Poland has become so vexatious that I have sent a note on the subject, copy of which is enclosed, to the Polish Foreign Office requesting that a contingent for automobiles be allotted as soon as possible.

While I am not particularly hopeful of obtaining any tangible result from this note I felt that it was necessary in the protection of American interests to go on record at this time.

I have [etc.]

JOHN B. STETSON, Jr.

[Enclosure]

*The American Minister (Stetson) to the Polish Minister for Foreign
Affairs (Zaleski)*

No. 755

WARSAW, June 24, 1927.

EXCELLENCY: I have the honor to address myself to Your Excellency with the request that the Polish Government examine carefully the situation actually existing regarding the importation of American automobiles into Poland, with a view to finding a solution more satisfactory to the requirements of American manufacturers.

My understanding is as follows: When the Polish Government decided, in the autumn of 1925, to introduce contingents, stating at

as accepted by the recognized agents should have been disqualified by a letter addressed over the head of the agent directly in contact with the Ministry of War. One of the ranking officials of the Ministry of War has asked explanations of this method of doing business of the American Military Attaché. Colonel McKenney made the only possible answer that the Legation had had no information as to the intentions of the Colt Company, but he was certain that the letter carried with it no desire whatsoever of being offensive to the Polish Government.

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tract with this firm even though the price seemed to be higher than those offered by the competing companies.

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JOHN B. STETSON, Jr.

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IN CONTINGENT ALLOWED FOR IMPORTATION OF AMERICAN
AUTOMOBILES**

660c.116/39

The Minister in Poland (Stetson) to the Secretary of State

[Extract]

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[Received July 18.]

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I have [etc.]

JOHN B. STETSON, Jr.

[Enclosure]

*The American Minister (Stetson) to the Polish Minister for Foreign
Affairs (Zaleski)*

No. 755

WARSAW, June 24, 1927.

EXCELLENCY: I have the honor to address myself to Your Excellency with the request that the Polish Government examine carefully the situation actually existing regarding the importation of American automobiles into Poland, with a view to finding a solution more satisfactory to the requirements of American manufacturers.

My understanding is as follows: When the Polish Government decided, in the autumn of 1925, to introduce contingents, stating at

that time that they considered this a temporary measure, contingents of fixed amounts for the importation of automobiles were then or later granted to certain governments, while an unallocated amount was set aside as a contingent for all other governments. Since then, as separate requests for import licenses for automobiles were made to the Polish Government, they were considered separately, and granted or not granted, according to a theory which I am unable to understand because there has not come to my knowledge the facts and figures touching upon the procedure followed by the Polish Government for the granting of contingents for automobiles.

I respectfully submit for Your Excellency's consideration that it is scarcely just that manufacturers of the United States, which is *par excellence* the country of automotive industry, should in this way be treated in a less cordial and less equitable manner than manufacturers of other countries, more especially in view of the *Modus Vivendi* of February 10, 1925,* by which the American and Polish Governments agreed to accord to merchandise manufactured in the two countries equitable treatment, as expressed in the most favored nation clause.

The representatives of certain American makes of cars in Poland state that they are losing business every day because they are unable to obtain permits for import. They have few or no cars in their warehouses or showrooms. Nevertheless, certain foreign manufacturers have cars in stock but a smaller demand for them. The result is a distinct injustice to American manufacturers, because the freedom of competition is taken from them by the general situation existing here. I ask no special favors for American cars. I desire only that the Polish customer should have the opportunity to exercise his choice under conditions of freedom and equality.

In view of the present conditions, I urgently request that the Polish Government accord to American manufacturers a contingent for automobiles as generous as is warranted by the importance of the United States as the center of the automotive industry of the world, and by the treatments accorded by the Polish Government to other countries manufacturing automobiles.

As the sale of automobiles is largely dependent on the season of the year, the question is urgent or it will be impossible for American manufacturers to take advantage of the demand which is greatest in spring and summer and almost disappears in autumn and winter. I therefore solicit Your Excellency's good offices with a view to receiving as prompt a reply as possible. Moreover, in view of the practice of my Government in making public all facts regarding the importation or exportation of merchandise to and from its territories, I should greatly appreciate it if Your Excellency could find it con-

* *Foreign Relations*, 1925, vol. II, p. 692.

venient to supply me with the rules and regulations in force in Poland regarding the granting of contingents.

Accept [etc.]

JOHN B. STETSON, Jr.

660c.116/40

The Minister in Poland (Stetson) to the Secretary of State

[Extract]

No. 1173

WARSAW, July 25, 1927.

[Received August 10.]

SIR: Adverting to the Legation's Despatch No. 1125, of June 27, 1927, relative to representations made in a note to the Polish Ministry of Foreign Affairs on the subject of contingents granted by the Polish Government for the importation of American motor cars into Poland, I now have the honor to inform the Department that the answer to the above-mentioned note, copy of which was transmitted the Department with the despatch above referred to, has just been received by the Legation.

I have [etc.]

JOHN B. STETSON, Jr.

[Enclosure—Translation]

The Polish Minister for Foreign Affairs (Zaleski) to the American Minister (Stetson)

WARSAW, July 21, 1927.

MR. MINISTER: In your note No. 795 [755] of June 24th, last, you were good enough to bring to the attention of the Ministry of Foreign Affairs the question of the procedure adopted by the Polish authorities with regard to the distribution of contingents established for certain articles the importation into Poland of which is forbidden in principle. Furthermore, and in particular, you have called the attention of the Ministry to the question of the contingents reserved for motor cars of American origin.

In acknowledging receipt of this note, I have the honor to enclose herewith, for your information, an explanatory memorandum relative to the procedure applied by Poland with regard to this matter. At the same time, I shall call your attention to the fact that the general procedure with regard to the regulating of foreign commerce was published in the *Monitor Polski* No. 301, of the year 1925.

This measure has always been considered as temporary, the Polish Government remaining sincerely desirous of orienting in a more and more liberal way its economic policy. The Polish Government is not unmindful of the serious inconveniences which result for its commercial relations with foreign countries, from the policy regulating its

trade, the institution of which, however, was dictated by superior interests of national economy to which, I should say, exporters in search of markets in Poland can not be indifferent.

Nevertheless, as regards the United States, the regime of regulation does not seem to have been prejudicial to the development of American exports to Poland. The United States occupies the second place among importing countries in Poland. It is to be noted that American imports into Poland constituted, in 1924, 12.4 per cent of the total imports, in 1925, 13.8 per cent, and in 1926, 18 per cent. The Polish-American balance of trade has always been very favorable to the United States and during the last years has been uniformly unfavorable to Poland. This has not been the case with a single other country, which proves that the treatment accorded by the Polish authorities to products originating in the United States has been more favorable than that to imports from other countries allied to Poland by commercial agreements.

With regard to special contingents for American automobiles mentioned in your note under acknowledgment, I have to advise you that the competent authorities are at present studying this question with a view to finding out whether it would be possible to give to the articles mentioned a special contingent. However, I must point out in this connection that in view of the present Polish balance of trade this question presents the most serious difficulties.

In conclusion, I have the honor to assure you that the American Government may count on receiving in Poland, within the limits of the commercial arrangement in force, treatment identical to that accorded to other countries with regard to the temporary regulations governing foreign commerce, as well as with regard to the alterations, lightening these regulations, which will be made therein. The Polish Government is far too anxious for a more intense development of the economic relations between Poland and the United States to let the least doubt exist in this regard.

Accept [etc.]

For the Minister and by his authorization :

A. TARNOWSKI

Director of the Political and Economic Department

[Subenclosure—Memorandum—Translation]

In establishing the sum totals of the contingents for articles the importation of which is prohibited in Poland, the competent Polish Authorities have adopted as a basis of their policy the natural contingents which were the average of globular importations effected during recent years.

The contingents in question are established every three months for every quarter which follows. Their sum total is communicated to

the Central Import Commission, an organization composed of the representatives of Polish commercial institutions, which is charged with the duty of distributing these contingents among Polish importers. Nevertheless, the Commission in question is only authorized to distribute three-fourths of the contingents established for each article, one-fourth remaining as a reserve to enable the Ministry of Industry and Commerce to be in a position to satisfy, in case of necessity, the just reclamations of Polish importers or of foreign exporters whose interests might perhaps have been injured through the distribution of contingents by the Central Import Commission.

With regard to the distribution of three-fourths of the contingents, this is effected as the requests of Polish importers come in, without taking into consideration the origin of the merchandize to be imported.

Nevertheless, it should be noted that import licenses are only issued for merchandize coming from a country which has concluded a treaty of commerce with Poland.

660c.116/38 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

WASHINGTON, July 30, 1927—3 p. m.

30. (1) Department of Commerce reports that Polish distributor of Goodyear tires states that Michelin Tire Company, a French concern, has received permits for importation during period July-September 75,000 kilograms of tires leaving available only 24,000 to be supplied by all other tire exporters. Commercial Attaché can furnish particulars. *Modus vivendi* of 1925 stipulates that "in the matter of licensing or prohibitions of imports or exports, Poland and the United States respectively, so far as they at any time maintain such a system, will accord to the commerce of the other treatment as favorable, with respect to commodities, valuations and quantities, as may be accorded to the commerce of any other country", and "Every concession with respect to any . . . regulation affecting commerce now accorded or that may hereafter be accorded by the United States or by Poland, by law, proclamation, decree or commercial treaty or agreement, to any foreign country will become immediately applicable without request and without compensation to the commerce of Poland and of the United States and its territories and possessions, respectively."

Under these two provisions permits should be granted for importation of American automobile tires into Poland in at least as large a quantity as of French tires. Please take up the matter with Polish Government and protest in such form as you consider most effective against this discrimination against American trade in contravention of the terms of the *modus vivendi*. Please state that you have been instructed to request a statement of the basis on which

the system of contingents is applied. Also state broadly that the Government of the United States is confident that on examining the facts of the situation the Polish Government will at once take suitable action to insure that the rights to which imports from the United States are entitled under the *modus vivendi* are in fact fully accorded.

You may also state orally that according to information furnished by the Department of Commerce 40 to 50 percent. of the tires imported into Poland during the first 3 months of 1927 were of American origin; and that according to the best available information the total tire exports of the United States during that period were at least equal to those of any other country. During the second quarter, though comparative figures are not available, tire exports from the United States to Poland were double those in the first quarter. Consult Commercial Attaché regarding figures. [Paraphrase.] Pending receipt of statement from Polish Government as to basis upon which contingent system is applied, it may be advisable for you to avoid putting statistical statements in writing. [End paraphrase.]

(2) Department approves your action reported despatch 1125, June 27. If you deem it advisable you may refer in your communication to that and any other similar cases.

You are authorized to take similar action in like cases in the future. Please keep the Department closely advised, and forward promptly copies of any communications to the Polish Government pursuant to these instructions.

KELLOGG

660c.116/40: Telegram

The Secretary of State to the Minister in Poland (Stetson)

WASHINGTON, August 20, 1927—2 p. m.

32. Your despatch July 25. Department's telegram July 30. In view of unsatisfactory character of foreign office note of July 21 reply should be made, unless you perceive objection, further defining position of this Government in the matter of contingents. You should point out that one of principal grounds for dissatisfaction is secrecy with which contingent system is administered. *Modus vivendi* guarantees equitable treatment with respect to each article subject to licensing and Department wishes means of knowing whether such treatment is actually being accorded. In this connection, refer to statement of Polish Government in regard to favorable showing of United States in total import trade of Poland, and point out that this is by no means conclusive indication of favorable treatment under contingent system inasmuch as 70 per cent. of total imports is said to consist of articles not subject to licensing.

Request statement of number of import licenses for automobiles granted various exporting countries, and if not already obtained request similar statement for tires.

[Paraphrase.] Following for your guidance. The Department believes that by continued pressure at present time some influence may be exerted toward ending the contingent system. If present occasion is taken to state emphatically the position of our Government, more favorable treatment may be accorded other articles apart from the prospect of securing tangible result on automobile contingents.

In apportioning licenses, regard should be given to normal share from the United States in total imports of each article which is subject to licensing. In consultation with commercial attaché, compute, if possible, such share for tires and automobiles, based on import statistics for period preceding the adoption of the contingent system. Try to obtain assurances that licenses will be allotted to American imports on this basis if you consider such share equitable and if it is not now being received. As occasion arises, follow similar procedure regarding other articles.

Department should be kept fully informed. [End paraphrase.]

KELLOGG

660c.116/45

The Minister in Poland (Stetson) to the Secretary of State

No. 1206

WARSAW, August 23, 1927.

[Received September 12.]

SIR: In amplification of the Legation's telegraphic despatch No. 58, August 23, 1927, 11 a. m.,⁵ I now have the honor to transmit herewith copy of a note which I have forwarded to the Polish Ministry of Foreign Affairs, with regard to the question of the allocation of import licenses for American goods imported into Poland, in particular motor cars, tires and tubes.

Prior to presenting the note in question I had a conversation with Mr. Knoll, the Acting Minister for Foreign Affairs, with regard to the matter treated of therein. Mr. Knoll told me that Marshal Pilsudski,⁶ Mr. Bartel, the Vice Premier, and Mr. Kwiatkowski, the Minister of Commerce, had all come to the conclusion that the contingent system was not producing the results they had expected, for which reason they had decided that it must be done away with as soon as possible. He went on to say that the Ministry of Foreign Affairs had been from the first somewhat skeptical of the contingent system working out satisfactorily, but that they always found it

⁵ Not printed.

⁶ Premier and Minister of War.

difficult to prevail upon the Ministry of Commerce to accept their point of view in matters relating to commerce.

Mr. Knoll, however, either was unable or did not see fit to furnish me with any information as to when contingents would be done away with or as to what system would be inaugurated to replace the present one.

Further conversation with Mr. Knoll confirmed what I had already heard, namely, that other countries besides ourselves are pressing the Ministry of Foreign Affairs with a view to securing something more than the present contingent system grants them. I refer in particular to the Italian Government which, I understand, has been and is continuing to encounter great difficulties with regard to securing a sufficient contingent to permit them to export their oranges to Poland.

Mr. Knoll asked me to make the note that I told him I was about to send him as strong as possible, as that would strengthen his hand in his dealings with Marshal Pilsudski, Mr. Bartel and the Ministry of Commerce.

I impressed upon Mr. Knoll that at the present moment we were particularly interested in getting additional contingents for motor cars, tires and tubes. I pointed out that the sale of motor cars, tires and tubes was to a large extent dependent upon the season and that unless an additional contingent would be secured at once the manufacturers of the articles in question would lose their best opportunity of disposing of their goods in Poland. Mr. Knoll assured me that he would do his utmost to secure for us at an early date the additional contingents requested.

I am not particularly hopeful that anything concrete will come of the Legation's representations in this matter, although I feel that the fact that we and other governments are keeping after the Poles will make them realize sooner or later that a change in their economic and commercial system, so as to accord most favored nation treatment to the goods of all nations, will be to their advantage in the long run.

I have [etc.]

JOHN B. STETSON, Jr.

[Enclosure]

The American Minister (Stetson) to the Polish Acting Minister for Foreign Affairs (Knoll)

No. 795

WARSAW, August 18, 1927.

EXCELLENCY: I have the honor to inform Your Excellency that the Warsaw representative of the Goodyear Tires Company has brought to the attention of the Legation the fact that, while he had requested that he be permitted to import 110,000 kilos of automobile tires and

tubes during the third quarter of the present year, import permits covering only 18,000 kilos were granted him. The Legation further understands, from a reliable source, that the Dunlop Tire Company, a British concern, and the French Michelin Company, have each received import permits covering approximately 75,000 kilos for the same period.

The *Modus Vivendi* of 1925 between Poland and the United States stipulates that "in the matter of licensing or prohibitions of imports or exports, Poland and the United States, respectively, so far as they at any time maintain such a system, will accord to the commerce of the other treatment as favorable, with respect to commodities, valuations and quantities, as may be accorded to the commerce of any other country" and "every concession with respect to any duty, charge or regulation affecting commerce now accorded or that may hereafter be accorded by the United States or by Poland by law, proclamation, decree or commercial treaty or agreement to any foreign country will become immediately applicable without request and without compensation to the commerce of Poland and of the United States and its territories and possessions respectively."

Under the foregoing provisions permits should be granted for importation of American automobile tires into Poland in at least as large a quantity as of English or French tires.

My Government has directed me to bring the foregoing to the attention of Your Excellency's Government, and to protest against what it considers discrimination against American trade, in contravention of the terms of the *Modus Vivendi* of 1925. In the absence of facts and figures proving the contrary, my Government is obliged to believe that such discrimination really does exist. My Government is confident, however, that following an examination of the facts of the situation the Polish Government will immediately take the necessary steps to insure that the rights to which imports from the United States are entitled under the terms of the *Modus Vivendi* between the two countries are in fact fully guaranteed.

The Legation is unable to consider as final Your Excellency's note of July 21st last, relative to contingents for the importation of American motor cars. While I appreciate Your Excellency's statement that the Polish Government is examining the situation with a view to granting a special contingent for the importation of American motor cars, I feel I must reiterate to Your Excellency that the sale of motor cars in Poland is largely dependent on the season of the year, and that unless the special contingent Your Excellency mentions is forthcoming at an early date the American manufacturers interested will lose the opportunity of disposing of their cars which an early granting of such a contingent would have insured them.

With regard to the system under which contingents are granted, the memorandum accompanying Your Excellency's note leaves me with the impression that it is the policy of the Polish Government not to publish but to keep secret the data relating to the granting and establishing of such contingents, such as the number of licenses issued, the nationality of the person to whom issued, etc., which in itself amounts to a deterrent to healthy trade. This is unfortunate, more especially in view of the policy of my Government of making public all information regarding imports into and exports from the United States and its territories, and certainly lends weight to the belief that there does exist discrimination against American products in Poland, in the matter of granting import licenses.

Accept [etc.]

JOHN B. STETSON, Jr.

66Oc.116/48 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, September 27, 1927—5 p. m.

[Received 9:45 p. m.]

66. Department's telegrams No. 30, July 30 and No. 32, August 20. The Legation has received from the Polish Government a verbal offer of an import contingent for American automobiles of 320 metric tons quarterly, beginning January 1, 1928. This amount, the Polish Government states, is 30 to 40 tons more than the present contingent for American cars. Of the total quarterly contingent of 320 metric tons 240 tons will be charged against automobiles of the General Motors and Ford Companies. It is intimated by the Polish Government however, that, if desired, the American allotment might be redistributed so as to give other American automobile manufacturers a larger proportion of the total contingent. It should be remarked that the total American quarterly contingent of 320 metric tons would include American cars entering Poland through Denmark. In this connection it is stated by the Ministry of Commerce that, inasmuch as 50% to 60% of the labor employed on American automobiles assembled in Denmark is American and as Danish labor represents only approximately 30% of the labor employed thereon, the Polish Government does not regard American cars assembled in Denmark as meeting the requirements of Polish law, and that Danish certificates of origin for such cars might therefore properly be withheld. The Legation has no means of verifying the accuracy of the foregoing statement but if it is correct, the refusal of the Polish Government to grant Danish certificates of origin to such cars apparently would be justified. The Legation is under the impression, however, that

the Polish Government is not really disposed to refuse Danish certificates of origin to American automobiles assembled in Denmark unless, possibly, this Government should seek to obtain a larger contingent for American cars exported directly to Poland from the United States than that offered by the Polish Government.

The Polish authorities state that French automobiles will be granted a quarterly contingent of 250 metric tons as compared with the 320 metric tons for American automobiles. The French contingent of 250 metric tons is said to be larger than that for any other country.

For the last quarter of 1927 the contingent for General Motors and Ford automobiles is said to be 240 metric tons. The Polish Ministry of Commerce states that for the same period all other American automobiles come under general contingent, which it is said, has been reduced somewhat. The Legation has been assured, however, that if individual requests for import permits for American automobiles other than Fords or those of the General Motors Corporation are presented by the Legation they will receive sympathetic consideration. France has a contingent of 250 tons, which is the largest enjoyed by any country.

With reference to tires and tubes, the American contingent, beginning January 1, 1928, will be 112 tons quarterly. The contingent for French tires and tubes, which is larger than that for any other country, will be exactly the same as the American contingent.

The Polish Government states that it has been unable to present the contingent figures above mentioned in a note to the Legation inasmuch as it desires that these figures be kept secret. The information concerning the French contingents has nevertheless been given to the Legation, it is said, as evidence of good will on the part of the Polish Government.

In order that the necessary steps may be taken preparatory to applying the new contingents on January 1, 1928, the Polish Government has requested an early reply to its verbal offer.

STETSON

660c.116/51 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

WASHINGTON, October 31, 1927—6 p. m.

47. Your 66, September 27, 5 p. m.

(1) Please inform Polish Government that quarterly import contingent of 320 metric tons for American automobiles during 1928 would be acceptable to this Government, provided this amount does not include automobiles manufactured from American parts in Denmark or other foreign countries. You may point out that if latter

were included effect would be to curtail rather than to increase the authorized importations of American cars.

Department is advised that paragraph 45 of Danish Customs Regulations provides that "As manufactured in Denmark, shall be considered not only such goods as are entirely of Danish origin, but also those imported which have undergone a substantial manipulation in Denmark." It is said that statement to same effect appears on Danish export declaration. If necessary you may bring foregoing to attention of Polish authorities and point out that so far as Danish Government is concerned automobiles assembled in Denmark, of which American materials might constitute over fifty per cent of total cost, apparently would be recognized as entitled to certificates of origin as Danish products. It may be well, however, before mentioning this point to Polish authorities to consult with Danish Minister.

(2) You may state that quarterly contingent of 112 metric tons for American tires and tubes during 1928 would be acceptable to this Government.

(3) With reference to allotment of definite portions of American contingents to certain American manufacturers, please state that this Government would prefer to leave such allotment for negotiation between individual companies and Polish authorities. Since contingency might arise, however, in which an American company would not be in position fully to utilize its allotment, you should request that any allotment determined upon by Polish authorities will not be so rigidly maintained as to deprive other American producers of opportunity of utilizing any unused portion of quotas assigned any particular company.

(4) Department understands that, beginning January 1, 1928, American automobile contingent of 320 metric tons quarterly would be larger than for any country and that American quarterly contingent for tires and tubes of 112 metric tons would not be exceeded by contingent of any other country and equalled only by that of France.

(5) In order that this Government may feel assured that American share in Poland's imports will reflect relative importance of United States in manufacture of articles in question you should request that in event of any subsequent increase in contingents of other countries, corresponding increase will be made in American contingents.

6. You should request that some means be provided by Polish authorities whereby you may readily ascertain at any given time for any article subject to licensing total quantity of importations from United States effected on a given contingent and total number of unused licenses outstanding.

KELLOGG

660c.116/52: Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, November 4, 1927—3 p. m.

[Received 4:15 p. m.]

78. Department's No. 47, October 31, 6 p. m. The proposals reported in my No. 66, September 27, 5 p. m., were a final offer by the Poles and were also intended as an answer to our argument that American imports had been discriminated against under system of secret contingents. From my last conversations with Polish officials there is little doubt that further discussions will bring a demand from the Poles for a clear statement as to whether or not we consider automobiles assembled in Denmark from American parts as American cars and entitled to full consideration as such.

If, however, we accept the offer of 320 metric tons including cars assembled in Denmark, we thereby admit the Polish contention that such cars are American and prejudice the possibility of gaining further substantial increase as the contingent for the United States thus becomes far greater than that of any other country. If, on the other hand, we contend that cars assembled in Denmark are not American, we might be able to secure a contingent for direct imports equal to or greater than the French. This, of course, obviously involves the risk that such an increase would be at the expense of Ford and General Motors products imported from Denmark.

I think it would be very unwise to continue conversations until we are ready to clearly state our position on the points enumerated above.

STETSON

660c.116/52: Telegram

The Secretary of State to the Minister in Poland (Stetson)

[Paraphrase]

WASHINGTON, November 9, 1927—1 p. m.

51. Your telegram No. 78, November 4, 3 p. m. The Department desires any information you may discreetly obtain with respect to action the Danish Minister is likely to take to obtain a contingent for 1928 for automobiles assembled in Denmark should such cars be considered as imported from Denmark rather than the United States. Any indication you can furnish as to the possible amount of such a contingent would be useful.

KELLOGG

660c.116/53 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, November 24, 1927—10 a. m.

[Received 6:45 p. m.]

82. Department's telegrams No. 51, November 9, 1 p. m., and No. 56, November 21, 4 p. m.⁷

1. I am informed by the Danish Minister that he has been authorized to give the same protection to Ford and General Motors cars assembled in Denmark from American parts as to articles of Danish origin. He points out, however, that although the balance of trade between Denmark and Poland is favorable to Poland, he has been instructed not to make any threat of reprisals as regards coal should the Polish Government reduce or abolish contingents for automobiles or other Danish products.

2. The Danish Minister has no better means than I have of knowing how large a contingent may eventually be granted for automobiles imported into Poland from Denmark. But the Minister assures me that all his influence will be exerted to obtain for importations from Denmark a contingent equal to that which we may obtain.

3. Referring to my telegram No. 66 of September 27, and to the statement appearing in its paragraph 5, the Danish Legation has now officially notified the Polish Government that more than half the value of General Motors automobiles is added in Denmark.

4. It is my opinion that if the Legation were authorized to protect only direct importations, the American interests would be best served. I believe that we have a fair chance, by unofficial cooperation with the Danish Legation, of obtaining a joint contingent greater than the present offer of 320 metric tons per quarter.

STETSON

660c.116/55 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

[Paraphrase]

WASHINGTON, December 8, 1927—6 p. m.

58. (1) The Department approves suggestions in fourth paragraph of your telegram No. 82 of November 24, 10 a. m. In respect to import contingents for automobiles, you should confine your negotiations with the Polish authorities to cars which are manufactured

⁷ Latter not printed.

wholly in the United States. For such cars you should try to obtain a contingent of 320 metric tons per quarter, and in any case a quarterly contingent no smaller than France or any other country may receive.

(2) You may point out, if necessary, that since the Danish Government is of opinion that cars manufactured in Denmark largely from American parts are entitled to Danish certificates of origin, and that since heretofore the Polish Government has itself accepted such cars as Danish, they should be admitted under a Danish contingent.

(3) You may also state, if you think it necessary, that the United States itself regards as Danish, rather than American, the trade in cars assembled in Denmark. But such action should be taken only if the Legation considers it absolutely necessary in obtaining the contingent indicated in the first paragraph above. In any statement, however, regarding trade in the products of assembling plants abroad, you should carefully avoid prejudicing possible intercession by this Government in behalf of American proprietary interest in the assembling plants themselves.

(4) Referring to Legation's despatch No. 1330 of November 17.*

In the event that the Polish authorities should indicate willingness to grant us greater contingent for automobiles fully manufactured in the United States than that allotted to France, you should not urge too strongly that the United States be granted contingent for toilet articles equal to that of France, in view of Department's attitude respecting allotment of contingents as stated in fifth paragraph of telegram 32, August 20.

KELLOGG

660c.116/56: Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, December 23, 1927—noon.

[Received December 23—11:38 a. m.]

88. Referring to Department's telegram No. 58 of December 8, regarding contingents for importation of automobiles. I am accepting quarterly contingent of 250 metric tons for automobiles imported under American certificates of origin, in consideration of assurances to me by the Polish Government that we are receiving treatment equal to that granted to most favored nation.

STETSON

* Not printed.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND POLAND
AND ACCOMPANYING PROTOCOL, SIGNED NOVEMBER 22, 1927

Treaty Series No. 789

*Treaty Between the United States of America and Poland, Signed at
Warsaw, November 22, 1927*^a

The United States of America and the Republic of Poland, desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice, between the United States of America and the Republic of Poland, and have appointed for that purpose the following plenipotentiaries:

The United States of America: H. E. John B. Stetson, Jr. Envoy Extraordinary and Minister Plenipotentiary in Warsaw.

The Republic of Poland: H. E. August Zaleski, Minister for Foreign Affairs,

Who, after having so communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of Poland shall, upon requisition duly made as herein provided, deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in Article II of the present treaty committed within the jurisdiction of one of the High Contracting Parties and who shall seek an asylum or shall be found within the territory of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with, or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms parricide, assassination, manslaughter when voluntary, poisoning or infanticide;
2. The attempt to commit murder;
3. Arson;

^a In English and Polish; Polish text not printed. Ratification advised by the Senate, Feb. 24, 1928; ratified by the President, Mar. 14, 1928; ratified by Poland, Apr. 29, 1929; ratifications exchanged at Warsaw, June 6, 1929; proclaimed by the President, June 18, 1929.

4. Wilful and unlawful destruction or damage of track and railroad establishments, which endangers human life;

5. Crimes committed at sea:

a. Piracy;

b. Wrongfully sinking or destroying a vessel at sea or attempting to do so;

c. Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of a vessel.

d. Assault on board ship upon the high seas, with intent to do bodily harm.

6. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein;

7. Robbery, defined to be the act of feloniously and forcibly taking from the person of another goods or money by violence or by putting him in fear;

8. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, bank notes or other instruments of public credit, counterfeit dies and the utterance, circulation or fraudulent use of the above mentioned objects;

9. Forgery or the utterance of forged papers or the fraudulent use of any of the same, providing the loss occasioned exceeds one thousand dollars or Polish equivalent;

10. Embezzlement or criminal malversation committed by public officers or depositaries, where the amount embezzled exceeds one thousand dollars or Polish equivalent;

11. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries and where the amount embezzled exceeds one thousand dollars or Polish equivalent;

12. Fraud or breach of a trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any Company or Corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds one thousand dollars or Polish equivalent;

13. Obtaining money, valuable securities or other property by false pretences or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds one thousand dollars or Polish equivalent;

14. Larceny if the damage caused exceeds one thousand dollars or Polish equivalent;

15. Perjury or subornation of perjury, where as a result of such a false testimony, an innocent person has been punished by imprisonment or a more severe penalty, or a person has been unjustly acquitted of a crime or an unjust sentence was pronounced in a civil case where the amount exceeds one thousand dollars or Polish equivalent and a loss of this amount actually resulted;

16. Kidnapping of minors or adults defined to be the abduction or detention of a person or persons, in order to exact money from them, their families, or any other person or persons, or for any unlawful end;

17. Crimes and offences against the laws for the suppression of slavery or slave trading;

18. Crimes defined as the so-called traffic of women and girls, that means recruiting, abduction or seduction for immoral purposes of said persons, provided such crimes be punishable by imprisonment of at least one year, or by more severe penalty.

Extradition shall also take place for participation in any of the crimes before mentioned as an accessory before or after the fact, provided such participation be punishable by imprisonment of at least one year by the laws of both the High Contracting Parties.

ARTICLE III

The provisions of the present Treaty shall not import a claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences.

When the crime belongs to those designated in Article II sec. 1 and 2—the fact that the offence was directed against the life of the Head of the State, the President, of one of the High Contracting Parties, or against the Head of a Foreign State, or against the life of any member of his family shall not be deemed sufficient to sustain that such crime or offence was of a political character, or was an act connected with crimes or offences of a political character.

ARTICLE IV

The person delivered up shall be tried only for the crime or offence for which he was surrendered. This provision, however, does not apply to the case, when the said person fails to leave the territory of the Party to which he was surrendered within the period of three months after the date of inflicting upon him the penalty for the crime or offence for which he was delivered, or after the date of his being advised of his acquittal or of the fact that his case has been dismissed.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, or according to the laws of the place where he was found, the criminal is exempt from prosecution or punishment for the offence for which the surrender is asked.

Extradition shall also not be granted if, in a case of concurrent jurisdiction, there has been concluded or is pending in the surrendering State the prosecution of the fugitive on a charge growing out of the same set of facts as that upon which the extradition is sought.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the provisions hereof be actually under prosecution, out on bail or in custody, for another crime or offence, his extradition may be deferred until such proceedings be determined, or until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the Parties hereto, shall be also claimed by one or more powers, such criminal shall be delivered to that State whose demand is first received.

Nevertheless, the surrendering State may give preference to a third State provided it is bound by a treaty concluded with that State so to do.

ARTICLE VIII

Under the stipulations of this Treaty, the United States of America shall not be bound to deliver up its citizens, and the Republic of Poland shall not be bound to deliver up either Polish citizens or those of the Free City of Danzig.

ARTICLE IX

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offence, or which may be material as evidence of the crime, shall so far as practicable, according to the laws of either of the High Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

ARTICLE X

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting

Parties. In the event of the absence of such agents from the country or its seat of government, requisitions may be made by Consular officers.

A duly authenticated copy of the sentence of the Court, before which the conviction of the criminal took place, shall be produced with requisition of surrender.

If the person, whose extradition is requested, is merely charged with crime or offence, or convicted by default, a duly authenticated copy of the warrant of arrest of the Court, and of the depositions upon which such warrant may have been issued, shall be produced with such other evidence, as may be deemed competent in the case.

Extradition shall be carried out in conformity with the law governing it in the country, where the requisition of surrender is made.

ARTICLE XI

The arrest of a fugitive criminal may be requested even upon telegraphic advice, stating the existence of a sentence of conviction or a warrant of arrest.

In Poland the requisition for the arrest shall be directed to the Minister of Foreign Affairs, who will transmit it to the appropriate authorities.

In the United States of America, the requisition for the arrest shall be directed to the Secretary of State, who shall confirm the regularity of the requisition and request the appropriate authorities to take action thereon in conformity with the law.

In both countries, in case of urgency, the requisition for the arrest and detention may be addressed directly to the appropriate magistrate, in conformity with the laws in force.

A person provisionally arrested shall be released unless within three months from the date of arrest the formal requisition for surrender with the documentary proofs set out in Article X have been produced by the diplomatic agent of the demanding Government or, in his absence, by a Consular officer thereof.

ARTICLE XII

In every case of a request made by either of the High Contracting Parties for the arrest, detention or extradition of fugitive criminals, the appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power.

No claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall in the course of

their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

These claims for fees are to be submitted through the intermediary of the respective Government.

ARTICLE XIII

The expenses of arrest, detention, examination and transportation of the accused shall be paid by the Government, which has preferred the demand for extradition.

ARTICLE XIV

The provisions of the present Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties, or in the occupancy and under the control of either of them during such occupancy or control.

ARTICLE XV

The present Treaty shall be ratified by the High Contracting Parties and the exchange of ratifications shall take place at Warsaw, as soon as possible.

This Treaty shall take effect on the thirtieth day after the date of the exchange of ratifications and shall be applied, although the crime or offence, for which the extradition has been claimed, have been committed before its entering into force.

The present Treaty may be terminated, yet it will remain in force for one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

In witness whereof, the undersigned Plenipotentiaries have signed the present Treaty and affixed thereto their respective seals.

Done in duplicate at Warsaw this 22 day of November 1927.

| | |
|--------|---------------------|
| [SEAL] | JOHN B. STETSON JR. |
| [SEAL] | AUGUST ZALESKI |

PROTOCOL ACCOMPANYING THE TREATY OF EXTRADITION BETWEEN THE
UNITED STATES OF AMERICA AND THE REPUBLIC OF POLAND

At the moment of signing the Treaty of Extradition between the United States of America and the Republic of Poland the undersigned Plenipotentiaries, duly empowered, have agreed as follows:

1. The Polish Government consents to extradite, at the request of the Government of the United States of America, all fugitive criminals as they are referred to in the accompanying treaty, in cases where the charge involved exceeds \$200.00, although the minimum provided for in the accompanying treaty for the High Contracting Parties is \$1,000.00.

The foregoing agreement applies to the provisions of Paragraphs 9, 10, 11, 12, 13, 14 and 15 of Article II of the accompanying treaty.

2. The Polish Government, which by virtue of Article 104 of the Treaty of Peace at Versailles¹⁰ conducts the foreign affairs of the Free City of Danzig, undertakes to do all that is necessary to secure the adherence of the Free City of Danzig to the provisions of this protocol and the accompanying treaty as soon as possible.

In faith whereof, the undersigned Plenipotentiaries have signed the present protocol and affixed thereto their respective seals.

Done in duplicate at Warsaw this 22 day of November 1927.

| | |
|--------|---------------------|
| [SEAL] | JOHN B. STETSON, jr |
| [SEAL] | AUGUST ZALESKI |

¹⁰ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3329, 3385.

RUMANIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND RUMANIA

711.712/-: Telegram

The Minister in Rumania (Culbertson) to the Secretary of State

[Paraphrase]

BUCHAREST, December 11, 1925—3 p. m.

[Received 7:55 p. m.]

98. With reference to circular instruction No. 211 of August 18, 1923,¹ I request specific instructions to undertake the negotiation of a treaty of friendship, commerce and navigation and consular rights. The United States has at present the good will of the Rumanian people and Government and with the development of American business interests the protection afforded by a modern commercial treaty would in some respects prove serviceable. If the principle of negotiating such a treaty is approved I shall arrange preliminary discussions with the Minister of Foreign Affairs and shall thereafter forward for the consideration of the Department a draft treaty following the model of the treaty between the United States and Germany² with a discussion of the provisions of each paragraph with reference to Rumanian laws and the conditions prevailing here.

CULBERTSON

711.712/-: Telegram

The Secretary of State to the Minister in Rumania (Culbertson)

WASHINGTON, December 31, 1925—7 p. m.

70. Your 98, December 11, 3 p. m. Department will be glad to undertake negotiation of a treaty of friendship, commerce and consular rights with Rumania, following as closely as possible the German Treaty. You are authorized to discuss the matter with the appropriate officials and to report their attitude together with any suggestions you may care to submit in the matter.

KELLOGG

¹ *Foreign Relations*, 1923, vol. I, p. 131.

² *Ibid.*, vol. II, p. 29.

711.712/1

The Minister in Rumania (Culbertson) to the Secretary of State

No. 111

BUCHAREST, January 9, 1926.

[Received February 11.]

SIR: Referring to my telegram No. 98 of December 11, 1925, and the Department's reply No. 70 of January 1, 1926 [*December 31, 1925*], I have the honor to report that I informed the Minister for Foreign Affairs today of the Department's willingness to undertake the negotiation of a treaty of friendship, commerce and consular rights with Rumania following as closely as possible the German Treaty. He informed me that the general policy of the Rumanian Government prevents the immediate discussion of a general commercial treaty but that following the completion of certain studies which are now being made by the Minister of Finance and which should be completed in two or three months he will be very glad to discuss the terms and scope of a commercial treaty.

His attitude was entirely friendly and it would appear that the Rumanian Government is endeavoring to review its commercial treaty relations as a whole and that until its studies are completed it does not feel in a position to commit itself to any permanent commercial arrangements. In the meantime, however, the Minister for Foreign Affairs is desirous of exchanging with the American Government a note regulating commercial relations similar to one of those transmitted to the Department with my despatch No. 95, dated December 17, 1925.³ He said today that if the American Government were willing, he desired to exchange such notes promptly so that American interests would not be in a less favorable position in Rumania than the interests of other friendly States.⁴

I should be grateful to have an indication from the Department as to what action, if any, I shall take in this matter.

I have [etc.]

W. S. CULBERTSON

611.7131/65

The Minister in Rumania (Culbertson) to the Secretary of State

No. 397

BUCHAREST, April 2, 1927.

[Received April 29.]

SIR: I have the honor to transmit herewith a note (enclosure No. 1) which I have sent to the Rumanian Government concerning the status of our most-favored nation understanding with Rumania

³ Not printed.

⁴ For the exchange of notes according mutual unconditional most-favored-nation treatment in customs matters, signed Feb. 26, 1926, see *Foreign Relations*, 1926, vol. II, pp. 893 ff.

(Treaty Series No. 733). I also transmit other information relating to the proposed new commercial treaty policy of Rumania.

In enclosures Nos. 2, 3, 4 and 5^{*} will be found typical press comments on the new tariff and treaty situation. The vague character of these comments is in part due to the fact that the new tariff law has not been made public and that official statements concerning the new treaties have been far from clear. Enclosure No. 6,⁵ for example, is a statement issued by the Ministry of Finance, but several readings of it will leave the reader still in doubt on some points of major importance. Mr. Palmer, Consul General at Bucharest, in his report of April 1, 1927, entitled "The New Rumanian Import Regime",⁵ has restated and analyzed the provisions of this government's statement.

I have discussed the proposed policy with Mr. Manoilescu, Under-secretary of Finance, who is now virtually the head of the Ministry of Finance, and who is regarded as the author of this new policy. He is following French and Italian precedents. The objective appears to be the negotiation of a series of treaties similar to the convention between Italy and Hungary of July 20, 1925 (Roma, Ministero Delle Finanze, *Bollettino Ufficiale*, Anno 1925, Vol. LXV—155).⁶ For some months Rumania and Italy have been discussing a commercial convention. Great secrecy has been maintained concerning its provisions.

The high rates on certain products in the new tariff are directed primarily against Poland, Czechoslovakia, Austria and perhaps other neighboring states whose industries are presenting severe competition to the new and inefficient industries of Rumania. Against these countries on certain articles higher rates are deemed to be necessary than in the case of other countries. To meet this situation and also to make possible tariff favors to certain countries, for political reasons, for example to Italy, Rumania appears to be entering upon a commercial policy which has the following features:

- 1) A higher tariff level;
- 2) a regime of special tariff bargaining based upon maximum and minimum tariff schedules fixed by parliament;
- 3) on certain so-called reserved articles rates may be changed by royal decree—this provision is in the nature of anti-dumping legislation;
- 4) no general blanket most-favored nation guarantees will be given any treaties, but most-favored nation treatment will be limited to those articles specified in lists attached to treaties negotiated with respective countries.

It is proposed to embody in every commercial treaty two lists of articles. List A will contain articles on which Rumania grants

^{*} Not printed.

⁶ League of Nations Treaty Series, vol. xlv, p. 39.

either the minimum tariff rate, or a special rate fixed by bargaining lower than her maximum tariff rate. If, subsequently, on articles specified in List A in a treaty with one country a lower rate is granted in a treaty with another country, the first country will receive with respect to that article most-favored nation treatment. It is specifically provided, however, that certain articles of special interest to Rumanian producers shall never be included in any List A (see enclosure No. 6).⁷

It is further proposed to have in commercial treaties a List B which will include those articles on which Rumania is willing to grant her minimum tariff. Most-favored nation treatment will also be granted to each country that concludes a treaty with Rumania with respect to all items listed in the lists B in the treaties of all other countries.

If a country in its negotiations with Rumania cannot get an article into List A or B of its treaty, it may find itself with respect to that article without most-favored nation treatment.

Delay in putting in force the new tariff would seem to indicate that other departments of the government are not willing to accept without modification the new commercial policy announced by the treasury. It is generally recognized that, however logical in theory, this new policy is extremely difficult of application and is likely to lead to serious complications.

From the standpoint of our announced policy, that is, general unconditional most-favored nation treatment, the most significant statement in the Finance Ministry's new commercial treaty declaration is that in no case will the most-favored nation clause be granted with respect to the whole customs tariff. Mr. Manoilescu explained that their policy of reserving certain items from the operation of the most-favored nation clause was directed against neighboring countries whose competition is feared in the case of particular items, and that in the case of the United States, any item in which we are interested would be included either in List A or List B; in other words, he proposes to give us most-favored nation treatment in fact although not in theory.

In an effort to protect American interests, I sent to the Foreign Office on the day the new commercial policy was announced a note which is transmitted herewith as enclosure No. 1. I requested that our present most-favored nation treatment understanding with Rumania continue in force for a reasonable time until a new commercial convention could be concluded. I followed this note up with conversations at the Ministry for Foreign Affairs and at the Treasury. It brought immediately to the attention of the Rumanian Government a possible complication arising out of the proposed new policy.

⁷ Not printed.

Prophecies are dangerous, particularly in Rumania. However, by having brought the matter to the attention of the Rumanian Government before the question of general policy had been passed on finally by the Council of Ministers and by Parliament, I hope that I may be able to obtain assurances that will fully protect Amercian interests and perhaps even obtain a guarantee that American goods will pay only the minimum rates of the new tariff.

I have [etc.]

W. S. CULBERTSON

[Enclosure]

The American Minister (Culbertson) to the Rumanian Minister of Foreign Affairs (Mitilineu)

No. 16

BUCHAREST, March 24, 1927.

MR. MINISTER: I have read today in the press the memorandum, just issued, announcing the new customs tariff of Your Excellency's government and setting forth the principles which will guide in its application. The statement that the most-favored nation clauses in commercial agreements with foreign states will be cancelled is disquieting. In this connection I beg to repeat what I have said to Your Excellency on a number of occasions: that the commercial policy of the United States is not only to grant to all countries equal or most-favored nation treatment, but, at the same time, to insist that equal or most-favored nation treatment be granted by other nations to the products of the United States. The minimum tariff of the United States is applicable alike to products from whatever country they may come, provided only, that, in case of discrimination against the United States, the President may, by virtue of Section 317 of the Tariff Act of 1922,^s impose additional duties on products coming from any country refusing equal treatment to the products of the United States. Under our law it is immaterial how a discrimination is created, whether by legislative act, by special commercial agreement, or by executive decree.

As Your Excellency knows, there is in force between Rumania and the United States an exchange of notes dated February 26, 1926, by virtue of which a regime of most-favored nation treatment is established between our two countries. In an informal conversation today with Mr. Manoilescu, he assured me that this agreement would continue in force for a reasonable time until superseded by a general commercial treaty between the United States and Rumania. I shall be grateful to Your Excellency if you will confirm this statement to me in writing as the official position of your government.

I avail myself [etc.]

[File copy not signed]

^s 42 Stat. 858, 944.

611.7131/65: Telegram

The Secretary of State to the Minister in Rumania (Culbertson)

[Paraphrase]

WASHINGTON, May 9, 1927—5 p. m.

19. The Department wishes to maintain without change its present policy of inserting the unconditional most-favored-nation clause in such commercial treaties as it negotiates. While it would appear that the conclusion of a commercial treaty with Rumania on the basis of that Government's new policy as given in your despatch No. 397 of April 2, 1927, would in fact secure most-favored-nation treatment for American goods, it might likewise tend to establish a precedent which would seriously prejudice negotiations with Governments that are unwilling to concede most-favored-nation treatment even in substance to American goods.

Unless it becomes evident that Rumania will consent to negotiate a treaty with full most-favored-nation treatment, it is the feeling of the Department that the best policy will be to attempt to maintain the present *modus vivendi* as long as may be possible.

KELLOGG

611.7131/66

The Minister in Rumania (Culbertson) to the Secretary of State

No. 416

BUCHAREST, May 12, 1927.

[Received May 31.]

SIR: Referring to the Department's telegram No. 19, May 9, 5 P. M., and to my despatch No. 397 of April 2, 1927, I have the honor to report that for the time being the exchange of notes, providing for mutual, unconditional, most-favored nation treatment between Rumania and the United States (Treaty Series No. 733), remains in force and there appears to be no immediate probability that this *modus vivendi* will be discontinued by the Rumanian Government. I agree fully with the Department's position in the above mentioned telegram, and it was not my intention even to imply in my despatch No. 397 that I favored the negotiation of a treaty with Rumania on any principle other than the principle of general, unconditional, most-favored nation treatment.

In Rumanian Government circles there appears to be no longer any agreement concerning the basis of their commercial treaty policy. Difficulties are being experienced in reaching an agreement with Italy, and if the statement[s] of officials are to be accepted, the Ministry for Foreign Affairs and the Ministry of Commerce do not favor the abandoning of the general, most-favored nation clause in commercial treaties.

The fact that the Department has reaffirmed its position in a telegram to me is of the greatest service in maintaining my position with the Rumanian Government in the matter of the negotiation of a commercial treaty.

I have [etc.]

W. S. CULBERTSON

611.7131/69

The Minister in Rumania (Culbertson) to the Secretary of State

No. 555

BUCHAREST, March 16, 1928.

SIR: Referring to my despatch No. 416 of May 12, 1927, I have the honor to report that I have now been informally advised by the Foreign Office that copies of the commercial treaty between the United States and Germany in the English, German and French languages have now been given to each member in that department of the Rumanian Foreign Office which makes preliminary studies of all proposed treaties. I was further informed that as soon as this treaty has been properly studied, a delegation will confer with me regarding the possibility of drawing up a treaty of commerce between the United States and Rumania. It is gratifying to know that at least the first step in this important negotiation has taken place.

I have [etc.]

W. S. CULBERTSON

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROTESTS BY JEWISH GROUPS REGARDING TREATMENT OF JEWS IN RUMANIA

871.4016/107: Telegram

The Minister in Rumania (Culbertson) to the Secretary of State

[Paraphrase]

BUCHAREST, January 10, 1927—4 p. m.

[Received January 10—3:40 p. m.]

1. My attention has been directed by the Minister of Foreign Affairs to resolutions of protest adopted by Jewish meetings in New York on January 2 against anti-Semitic disorders in Rumania.⁹ He

⁹ The resolution referred to was adopted at a meeting held under the auspices of the American Jewish Congress. A copy of the resolution, forwarded to the Secretary of State in a letter from Rabbi Stephen S. Wise, Jan. 12, 1927 (not printed), reads in part as follows (file No. 871.4016/110):

"We urge our State Department to take such action compatible with diplomatic dignity as will impress upon the Rumanian Government the desires of the American people for the just and humane treatment of all minority groups in Rumania, whether of Jewish or of Christian faith, and for the preservation of such a spirit of tolerance and conciliation as will promote friendly relations between Rumania and all enlightened peoples.

"Be it further resolved, that the officers of the American Jewish Congress and cooperating organizations, are authorized and directed to take such action as they deem proper to bring the facts relating to the situation and the sufferings of the minority peoples of Rumania clearly to the attention of the world at large and to those of official circles having at heart a better understanding of and the desire for promotion of good will between all the peoples of the earth."

has requested me to inform the Department by cable of my observations on the subject during the time I have been here. As far as I have been able to discover there have never been pogroms in Rumania or events that could be described as remotely resembling such. Jews are subjected to social ostracism, but engage actively in many important business enterprises. Jewish students have encountered difficulties and isolated cases have occurred in which Jews have been attacked by students and rowdies to furnish amusement. Generally speaking, however, they are not molested and certainly there exists no organized persecution of Jews. A despatch on the subject follows.¹⁰

CULBERTSON

871.4016/116 : Telegram

The Secretary of State to the Minister in Rumania (Culbertson)

WASHINGTON, January 13, 1927—5 p. m.

2. For your information only. This morning a delegation, headed by Rabbi Wise and representing the American Jewish Congress and other national Jewish organizations, protested to the Secretary against alleged oppression of Jews in Rumania and asked that this Government intercede with Rumanian Government.

That part of the press account of the interview which refers to the Secretary's reply to the delegation and which was textually approved by the Department is as follows:

"The Secretary gave a lengthy and sympathetic hearing to the Delegation and was deeply impressed with the gravity of the allegations submitted. He promised to reply to the Delegation after making a careful study of the considerations set forth. He added that of course he had every sympathy with the ideals of religious liberty and of racial and cultural equality."

KELLOGG

871.4016/129

Memorandum by the Chief of the Division of Near Eastern Affairs (Shaw) of a Conversation Between the Secretary of State, Rabbi Stephen S. Wise, and Judge Milton Strasburger

[WASHINGTON,] February 12, 1927.

The Secretary stated that he had given the most careful study to the Resolution of the American Jewish Congress presented to him by Rabbi Wise and his delegation on January 13. He added that he had also considered all the applicable precedents from the earliest period of our history down to the present. The Secretary pointed out to Rabbi Wise that formal representations addressed by us to a foreign government concerning the internal affairs of that foreign govern-

¹⁰ Not printed.

ment were entirely inadmissible and would doubtless do more harm than good in any event. The Secretary stressed the fact that international practice in such matters was perfectly clear. We could not send a note to Rumania regarding the treatment of the Jews in that country.

The Secretary then went on to point out that, international doctrine and practice being as he had explained, if he were to make a formal reply to the Resolution of the Jewish Congress this reply would necessarily have to refer in unqualified terms to our inability to make formal representations to Rumania. The Secretary inquired whether such a reply would serve the interests which Rabbi Wise and his colleagues had at heart. Rabbi Wise replied with an unequivocal "no". The Secretary then pointed out that he had not the slightest desire to question the propriety of the Resolution, and he would go even further. He would be prepared to call in the Rumanian Minister and tell him of the state of public opinion in America concerning the treatment of Jews in Rumania and also of the expression which that public opinion had recently received. The American Minister at Bucharest would of course be informed of this move. Rabbi Wise at first seemed inclined to think that this procedure did not go far enough. The Secretary then explained in detail exactly what he had done in the face of the requests of the Catholics in this country that we make representations to Mexico on the religious situation in that country. He said that he had had numerous interviews with Catholic prelates and had pointed out to them that we could not make formal representations on such a subject to the Mexican Government. He had inquired whether they desired him, in reply to their written protests, to state this fact. After a series of conferences, the Secretary said, the Catholics had come around to see that it was not in the interest of their cause to press for formal representations. The Secretary explained that he had called in the Mexican Ambassador and showed him the petitions and communications which had been received by the Department concerning the religious situation in Mexico and he had explained the significance of these expressions of American public opinion.¹¹ Rabbi Wise asked whether it would not be possible for the Department to make some sort of reply to the Resolution. The Secretary made it perfectly clear that if any reply were to be sent it would necessarily have to contain an unequivocal statement as to our inability to make formal representations to Rumania.

At the conclusion of the interview it was understood that the Secretary would call in the Rumanian Minister and show him the Resolution of the Jewish Congress and explain its significance. The question of the Department making a written reply to the Resolution was

¹¹ See instruction No. 995, Aug. 25, 1926, to the Chargé in Mexico, *Foreign Relations*, 1926, vol. II, p. 705.

adjourned and meanwhile it was clearly understood that Rabbi Wise and his colleagues would make no public statement as to the course of action which it was proposed to take.

G. HOWLAND SHAW

871.4016/122

Memorandum of a Conversation Between the Secretary of State, the Rumanian Minister (Cretziano), and the Chief of the Division of Near Eastern Affairs (Shaw)

[WASHINGTON,] February 17, 1927.

The Secretary explained to the Minister that he had wanted to speak with him concerning the attitude of American public opinion towards the Jewish question in Rumania. He made it perfectly clear that he was not making official representations either to the Rumanian Government or to Mr. Cretziano. He said it would be obviously inappropriate for him to make such representations on a matter which concerned the domestic administration and politics of Rumania. The Secretary added, however, that he had desired quite informally and in the friendliest spirit, to call the Minister's attention to the existence of a certain opinion in this country concerning the treatment of Jews in Rumania and to show him the expressions of that opinion which the Department had recently received. The Minister said that reports concerning Rumanian Jews had been greatly exaggerated in this country. The Secretary replied that he was not passing judgment as to the facts of the situation but was simply calling the Minister's attention to American public opinion. The Minister suggested that Mr. Culbertson was in a position to contradict the exaggerated stories which were being circulated regarding the treatment of Jews in Rumania. The Secretary intimated that it was not the function of our Minister at Bucharest to investigate into the manner in which the Rumanian Government dealt with its own subjects. He said that for Mr. Culbertson to undertake such an investigation might properly be looked upon with disfavor by the Rumanian Government. He explained to the Minister the attitude which this Government had taken towards the request of American Catholics for representations to the Mexican Government on the treatment accorded to Mexican Catholics. The Secretary concluded his remarks by asking the Minister to let Mr. Shaw show him the various communications concerning the Jewish question in Rumania which the Department has been receiving for the past month.

Mr. Shaw showed the Minister a number of the above mentioned communications, calling particular attention to the letter of Rabbi Wise transmitting the protest passed at the American Jewish Congress¹² and to the letters received from Senators and Congressmen.

G. HOWLAND SHAW

¹² See footnote 9, p. 637.

AMENDS BY THE RUMANIAN GOVERNMENT FOR INJURIES TO AN
AMERICAN CITIZEN RESULTING FROM RIOTS AT ORADEA-MARE

371.1113 Keller, W. N. : Telegram

The Secretary of State to the Minister in Rumania (Culbertson)

WASHINGTON, December 10, 1927—6 p. m.

41. *New York Times* despatch from Budapest dated yesterday states that Gottfried [W. N.] Keller, an American citizen, was badly wounded by rioting Rumanian students engaged in anti-Semitic and anti-Magyar disturbances at Oradea-Mare. Keller said now to be in a hospital at Oradea-Mare. Please investigate and report briefly by telegraph.

KELLOGG

871.4016/145

The Minister in Rumania (Culbertson) to the Secretary of State

No. 508

BUCHAREST, December 10, 1927.

[Received December 29.]

SIR: I have the honor to report that on December 5th and 6th serious anti-Semitic riots took place at Oradea Mare and Cluj during a national convention of the university students of Rumania. Newspapers endeavoring to print the early details of the riots were at once confiscated by the government, but subsequent reports indicate that in Oradea Mare store windows were broken, shops looted and pedestrians injured. In Cluj, six Jewish synagogues were broken into and completely wrecked and those dwelling places known to be occupied by rabbis and other people of the Jewish race were likewise devastated.

There is enclosed a memorandum prepared by Mr. Patterson, Mr. Killeen and Mr. Goodman of the Legation giving such details as have been obtained from eye witnesses and from reliable newspapers concerning the damage done and stating the position of the government and the opposition.¹³

Yesterday Mr. Palmer, the Consul-General in Charge, brought to my attention what appears to be an important and unfortunate incident due to the rioting. Mr. W. N. Keller, a native-born American citizen, who is registered with the Consulate in Bucharest as such, was attacked, according to the letter received from Mrs. Keller, on the main street of Oradea Mare and severely injured. Mrs. Keller at once telegraphed to the Consulate, but fearing that the message might not be delivered, wrote a letter which was brought to Bucharest by hand. The telegram has not as yet been delivered, but immediately

¹³ Not printed.

upon being informed of the contents of this letter and having the assurance of Mr. Palmer that Mr. Keller is an American citizen, I addressed a note to the Minister for Foreign Affairs requesting punishment for the crime and the payment of proper compensation to Mr. Keller. I enclose a copy of this note for the information of the Department.

In response to my note, Mr. Titulesco, Minister for Foreign Affairs, asked me to see him this afternoon at 3 o'clock. He was greatly agitated over the anti-Jewish riots at Oradea Mare and Cluj and expressed his sincere regret that an American citizen had been injured. He stated that a representative of the Department of Justice would leave tonight for Oradea Mare to make a personal investigation of the Keller case and that next week he would have a report which he would bring to my attention. In the meanwhile vigorous measures are being taken to punish those who are guilty. He stated most emphatically that if the investigation disclosed a situation such as that indicated in my note, his government would pay immediately. I stressed the fact that I had had difficulties in the past in obtaining prompt replies from his government in similar cases and I spoke in particular of the Pinkowitz-Goldberg case. In this connection, I added, that unless there was a response from the Keller case next week, I would feel it my official duty to go personally to Oradea Mare and make an inquiry into the matter. I told him that I had little faith in reports made by local officials and I was gratified that he was sending a special investigator from Bucharest.

I have [etc.]

W. S. CULBERTSON

[Enclosure]

The American Minister (Culbertson) to the Rumanian Minister of Foreign Affairs (Titulesco)

No. 100

BUCHAREST, December 9, 1927.

MR. MINISTER: I have the honor to bring to Your Excellency's attention statements made to me concerning the maltreatment of an American citizen at Oradea Mare, which, if proven by investigation to be true, calls for prompt action by the Rumanian Government.

A letter received today from Mrs. W. N. Keller, Blvd. Regele Ferdinand, 32, Oradea Mare, states that on December 7, her husband while walking on the main street of that city was attacked without cause and seriously injured by members of the Rumanian Students' Congress. She states that this information was sent in a telegram, dated December 8, and addressed to the American Consulate, Bucharest, but I find upon inquiry that this telegram has not been delivered.

Mr. Keller was formerly with the Near East Relief. He was born at Linden Hall, Pa. and is registered at the American Consulate in Bucharest as an American citizen. He is now engaged in business at Oradea Mare.

I am immediately bringing this case to the attention of Your Government. I feel that you will wish to investigate it promptly. The non-delivery of the telegram in a case of this character requires in itself energetic investigation and, in addition, I am sure that, if you find it to be true that an American citizen has been maltreated by Rumanian students, Your Government will not delay the punishment for the crime and the proper compensation to Mr. Keller.

I avail myself [etc.] [File copy not signed]

371.1113Keller, W. N. : Telegram

The Minister in Rumania (Culbertson) to the Secretary of State

BUCHAREST, December 11, 1927—1 p. m.

[Received 10:47 p. m.]

56. Department's December 10, 6 p. m. The report concerning W. N. Keller, an American citizen registered at the Consulate, apparently true. I made a vigorous protest last Friday and the Rumanian Minister for Foreign Affairs yesterday expressed regret and has assured satisfaction following a special investigation being made by a representative of Department of Agriculture [Justice] who left here yesterday. Despatch on the situation left today in the pouch.¹⁴

CULBERTSON

371.1113Keller, W. N. : Telegram

The Minister in Rumania (Culbertson) to the Secretary of State

BUCHAREST, December 14, 1927—11 a. m.

[Received 1:30 p. m.]

58. Department's telegram No. 42, December 13, 6 p. m.¹⁵ Minister for Foreign Affairs has withdrawn objection to giving publicity to the fact that the Rumanian Government will compensate Keller. Case is settled except determination amount of claim.

CULBERTSON

371.1118Keller, W. N./1

The Minister in Rumania (Culbertson) to the Secretary of State

No. 511

BUCHAREST, December 20, 1927.

[Received January 7, 1928.]

SIR: Referring to my last telegram No. 58, 11 A. M., of December 14, 1927, I have the honor to report further concerning Mr. W. N.

¹⁴ Despatch No. 508, dated Dec. 10, 1927, *supra*.

¹⁵ Not printed.

Keller, American citizen, who was injured at Oradea Mare on December 6.

The chronological progress of this case is as follows:

1) On December 9, I was informed by Mr. Palmer, American Consul General at Bucharest, that he had received a letter from Mrs. W. N. Keller stating that her husband had been severely injured by Rumanian students at Oradea Mare; that she had reported this fact by telegram, but fearing that it might not be delivered had written a letter. Mr. Palmer also informed me that this telegram had not been received. I immediately drafted a note to the Minister for Foreign Affairs, a copy of which was transmitted to the Department with my despatch No. 508 of December 10, 1927. The note was delivered on the evening of December 9 to Prince Ghica, the Under-Secretary of State for Foreign Affairs, who sent it immediately to Mr. Titulesco, the Minister for Foreign Affairs, who was confined to his home by illness.

2) The next day, December 10, Mr. Titulesco requested me to come to see him at his home. He expressed the regret of his government that an American citizen had been injured and stated that a special inspector of the Department of Justice would leave that evening for Oradea Mare to investigate the case. I gave Mr. Titulesco to understand that unless I received a satisfactory response during the following week, I would feel it my official duty to go personally to Oradea Mare for the purpose of informing myself concerning the case. . . .

My intention was to go to Oradea Mare only as an extreme measure in case the Rumanian Government adopted the policy of procrastination, which it has pursued in other cases. I realized that, especially in view of the excited state of opinion in Bucharest, my trip to the scene of the riots would be in the nature of a demonstration. Fortunately, Mr. Titulesco understood. Even the intimation that I might find it necessary to go to Oradea Mare became the subject of current gossip in Bucharest and had, I believe, a salutary effect on a guilty government.

4) This happened on Saturday. Sunday intervened and on Monday, December 12, Mr. Titulesco telephoned me personally in the morning and asked me to come to see him at four o'clock that afternoon. I saw him in his sick room. There was also present the special representative of the Department of Justice who had made the investigation at Oradea Mare. Mr. Titulesco read to me the special report, which is transmitted herewith as enclosure No. 1.¹⁶ It states, among other things, that Mr. Keller was warned to stay away from the students and charges him with indiscretion which

¹⁶ Not printed.

lead the students to maltreat him. At the same time I read to Mr. Titulesco a letter which Mr. Palmer had received on the same day from Mrs. W. N. Keller and which is transmitted herewith as enclosure No. 2.¹⁶ At the end of the discussion, Mr. Titulesco stated that his government would compensate Mr. Keller for the injuries which he had suffered and requested me that no publicity be given to the settlement of this claim. I immediately expressed doubt as to whether information concerning the settlement of the case could be withheld from the public.

5) At the same interview Mr. Titulesco read me a copy of a report which he had just received from the Director General of the Post, Telegraph and Telephones, explaining the non-delivery of the telegram sent by Mrs. Keller on December 7 to the American Consulate in Bucharest. A copy of this report is transmitted herewith as enclosure No. 3¹⁶ (see also enclosure No. 4 for the receipts of telegrams sent by Mrs. Keller).¹⁷ Mr. Titulesco fully realized the seriousness of my representations concerning the non-delivery of the telegram and the promptness of his investigation, and the nature of the action taken would seem to assure unusual care in the future with reference to the delivery of telegrams addressed to American officials in Rumania.

6) On December 13, I advised Mr. Titulesco that publicity concerning the settlement of the Keller claim could not be avoided. I told him that I had withheld from American journalists for two days the information because I realized the misuse which might be made of it in the delicate situation which existed at the time. I told him that the story reached American journalists in Bucharest by way of Budapest through queries from their head offices. I stated, however, that the story had developed to a point where the American public was demanding information concerning it and that the quickest way to avoid further publicity was a frank announcement that the case would be settled satisfactorily to the American citizen affected. Mr. Titulesco later telephoned his approval of publicity.

My position vis-à-vis the American journalists in Bucharest was somewhat difficult. They were irritated that I had not given them the story at once. However, I told them that I was here not to make news but to settle cases and that in view of the excited condition of local opinion and the eagerness of local politicians to use everything for their own advantage, I felt that I should act with extreme care and give the Rumanian Government no cause for charging me with unnecessarily exaggerating the seriousness of the case. As a matter of fact, my withholding publicity at the beginning placed me in an extremely strong position with Mr. Titulesco in the later stages of the negotiation.

¹⁷ Not printed.

7) On December 15, Mr. Titulesco again asked me to come to see him and submitted to me the telegraphic report of his special investigator as to the damages suffered by Mr. Keller. The telegram stated that no damage had been done to the Sonnefeld print shop, but that the damage done to the newspaper *Minoritar Nagyvvvarad* amounts to 774,300 lei, of which Mr. Keller is entitled to 10%, since this is his share of stock in the newspaper. The telegram added that Mr. Keller is still confined to his bed and is as yet not able to give an accurate estimate of the cost of his expenses for medical assistance etc. The special investigator, however, estimates these costs at 30,000 lei, and states that Mr. Keller desires to leave to the decision of the American Legation the amount in addition which he should receive for the injuries suffered.

Mr. Titulesco said that the newspaper, *Minoritar Nagyvvvarad*, had been guilty of very violent attacks on the Rumanian Government and people.

8) On December 17, Mr. Palmer received from Mr. Keller a more detailed statement (enclosure No. 5) and also a letter giving further information (enclosure No. 6).¹⁸ It will be noted that Mr. Keller admits in this statement that he went among the students for the purpose of protesting against their Vandalism and that the prefect of police endeavored to dissuade him from taking further action. . . . Nevertheless, I have taken the position that if Mr. Keller was breaking the law, it was the duty of the local authorities to restrain him, and if not, it was their duty to give him protection.

There remains in this case only the question of the determination of the amount of the damages. Up to the present time Mr. Keller, although requested to do so, has submitted no estimate. In fact, he is still confined to his bed from his injuries. It appears, however, that his injuries are not of a permanent character and the claim will therefore not be large.

Mrs. Keller brought the fact that her husband had been injured in the first instance to the attention of Mr. Palmer who has continued to conduct the correspondence. I have conferred with him at every stage of the case and both he and Mr. Patterson have been extremely helpful with their assistance and counsel.

I have [etc.]

W. S. CULBERTSON

¹⁸ Not printed.

371.1113Keller, W.N./7

The Minister in Rumania (Culbertson) to the Secretary of State

No. 543

BUCHAREST, *February 18, 1928.*

[Received March 6, 1928.]

SIR: Referring to the Department's telegram No. 6 of January 21, 6 p. m.,¹⁹ I have the honor to report that I received today a letter, dated Budapest, February 13, 1928, from Mr. Laurance Lyon, attorney for Mr. W. N. Keller, stating that the claim of the latter against the Rumanian Government has been settled for \$2500. Mr. Lyon further states that Mr. Keller has given to the press the following statement:

"Mr. W. N. Keller, of Oradea Mare states that the Roumanian Government has made a satisfactory settlement of his claim on account of injuries received during the disorders at Oradea Mare, last December. Mr. Keller says, he realizes that he was not the object of any racial or religious demonstration, but that the whole incident simply arose from the fact that several thousand high-spirited students happened to be gathered to one place."

I have [etc.]

W. S. CULBERTSON

¹⁹ Not printed.

RUSSIA

GOOD OFFICES OF THE NORWEGIAN GOVERNMENT IN BEHALF OF CERTAIN AMERICAN CITIZENS IMPRISONED IN RUSSIA

361.1121 Kudrasheff, Alexander

The Secretary of State to the Chargé in Norway (Gade)

No. 298

WASHINGTON, August 26, 1926.

SIR: There are enclosed, for your information, three memoranda¹ summarizing the data in the Department's possession with respect to three American nationals who have been imprisoned by the Soviet authorities—Alexander Kudrasheff, Julius Chevalier, and Aaron Kopman.

You will observe that all of these individuals are reported to be in most straitened circumstances. Mr. Kudrasheff, according to most recent information, is detained [*dependent?*] for his subsistence upon the charity of the pastor of a local German church, while Mr. Chevalier is confined, and probably Mr. Kopman also, under conditions of extreme hardship in a prison camp in the White Sea.

With respect to the cause of the arrest and imprisonment of the individuals in question, it will be noted that Mr. Kudrasheff was arrested in Tiflis by the Cheka, on the charge of economic espionage, and confined there without trial; that Mr. Chevalier was arrested and imprisoned in Tiflis on the charge of smuggling letters out of Russia and subsequently transferred, apparently without trial, to serve a three years' imprisonment in a prison camp in the White Sea; and that Mr. Kopman was arrested by the G. P. U., apparently on the charge of violating the Soviet monopoly of foreign trade, and sentenced without trial to three years' imprisonment on Solovetsky Island.

You are requested to bring informally to the attention of the Norwegian Foreign Office the plight of these three American citizens and express the hope that the Norwegian Government may be willing to use its good offices in their behalf. You may deem it advisable to point out that the Soviets have probably not been apprised of the painful impression which has been created by the harsh treatment accorded to these American citizens, especially in view of the protection of person and property enjoyed by Soviet citizens visiting the United States. The experience of the above-

¹ Not printed.

mentioned American citizens would appear to indicate the continued absence in Russia under the Soviet régime of a system of law and administration conforming to the standards of justice accepted by civilized countries.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

361.1121 Kudrasheff, Alexander

The Minister in Norway (Swenson) to the Secretary of State

No. 903

OSLO, November 22, 1926.

[Received December 21.]

SIR: I have the honor to report that in compliance with the Department's instruction No. 298 of August 26, 1926, the case of Kudrasheff, Chevalier, and Kopman was taken up with the Norwegian Ministry of Foreign Affairs, which promised to use its good offices with a view to securing the release of the three Americans imprisoned in Soviet Russia.

The Legation is now in receipt of the enclosed note, dated the eighteenth instant, from the Norwegian Foreign Office, in which is transmitted a self-explanatory excerpt from the report of the Norwegian Minister at Moscow to his government in this matter.

I have [etc.]

LAURITS S. SWENSON

[Enclosure—Translation]

The Norwegian Under Secretary of Foreign Affairs (Esmarch) to the American Minister (Swenson)

OSLO, November 18, 1926.

MR. MINISTER: I have the honor to advise you that the Foreign Office upon receipt of your memorandum of the thirteenth ultimo regarding the three American citizens, Kudrasheff, Chevalier, and Kopman, imprisoned in Soviet Russia, authorized the legation in Moscow to make representations in the matter to the Soviet authorities with a view to securing the three gentlemen's freedom or at least to have accorded to them such privileges as might be granted.

In this connection I have the honor to forward herewith a transcript of a note dated the eighth instant from the above-mentioned legation, together with the enclosure referred to therein.²

It is requested that the Legation's note be regarded as confidential. Upon the receipt of additional information in the case I shall immediately advise you.

² Enclosure not printed.

Remaining as always gladly at your service in this matter, I beg [etc.]

AUG. ESMARCH

[Subenclosure—Translation]

*Excerpt From Report of Norwegian Minister in Russia to the
Norwegian Foreign Office*

Moscow, November 8, 1926.

TO THE ROYAL NORWEGIAN FOREIGN OFFICE: On the third instant I had a conference with Litvinoff in which I brought up this case. . . . I delivered the documents to Litvinoff, stating that the American Minister at Oslo had addressed himself to me in the matter and that I felt I should acquaint Litvinoff with the case even though I could not act officially in it. I chose this form because I feared that if I made representations on behalf of the Norwegian Government, I would simply meet with a blank refusal.

Litvinoff replied that he could not receive any official representation from me in such a matter. But the Soviet Government did not wish American citizens to be treated with injustice, so he would gladly look into the case. He thereupon perused the papers I had brought and remarked that two of the persons concerned, namely Kudrasheff and Kopman, were born in Russia. Even if they had later become naturalized American citizens, they would be regarded and treated as Russian citizens as soon as they returned to Russia. When a person in their position sought a visa to enter Russia, he was obliged, if he intended to return for good, to sign a declaration to the effect that he should be regarded as a Russian citizen from the moment he set foot on Russian territory. If he sought a visa for a shorter sojourn in Russia he was advised that as long as he remained in Russia he would be regarded as a Russian citizen. These regulations were not new. The same had applied in Russia before the revolution.

There was nothing to be done for two of the persons in question, but he kept the documents for all three and promised to investigate the case.

At a later date I shall again address myself to Litvinoff in order to hear whether he can give me any information. I enquired whether there was any way, as for example through the political red cross, that help could be sent to the arrested men, but he advised me not to take any steps in this direction.³

I enclose a copy of the excerpt which I delivered to Litvinoff.⁴

As regards Chevalier, I believe that the representation made may lead to his release. The prospect for the others is very poor, but

*The Department of State sent \$50 to Alexander Kudrasheff through the German Foreign Office and German consul general at Tiflis.

⁴Not printed.

results are by no means hopeless for them. I can do nothing more for the present, but the question of getting some help sent to them can in any case be taken up again, if the American Government wishes me to make a new effort. I think it unlikely that they would refuse to receive packages containing clothing and food, which one wished to send them.

Prisoners in Russia as a rule are allowed to receive such parcels.

[File copy not signed]

361,1121 Kudrasheff, Alexander

The Minister in Norway (Swenson) to the Secretary of State

No. 918

OSLO, December 27, 1926.

[Received January 24, 1927.]

SIR: Referring to the Department's instruction No. 298 of August 26, 1926, and to my despatch No. 903 dated November 22, 1926, with regard to the American citizens Kudrasheff, Chevalier, and Kopman, imprisoned in Soviet Russia, I have the honor to report that I am in receipt of the following note from the Norwegian Foreign Office in this matter:

TRANSLATION

Royal Foreign Office
The Undersecretary.

Oslo, December 22, 1926.

Mr. Minister:

With reference to my note of the eighteenth ultimo regarding the three American citizens Kudrasheff, Chevalier, and Kopman, who are imprisoned in Soviet Russia, I have the honor to advise that the Legation in Moscow has privately ascertained that Julius Chevalier has been released and has either already left Soviet Russian territory or will leave in the very near future. An attempt was made to send him out via Latvia, but the Lettish border authorities placed difficulties in the way of this, and therefore it was necessary to send him another way without the Legation hearing by which route. But the case of the man in question is presumably in order.

As for the other two, Kudrasheff and Kopman, it appeared certain that they were Russian subjects, so no information regarding them could be given to the Legation in Moscow.

Accept, Mr. Minister, the assurance of my distinguished consideration.

(signed) Aug. Esmarch

An appropriate expression of thanks for the interest shown and assistance rendered in this case by the Norwegian Government has been made to the Foreign Office.

I have [etc.]

LAURITS S. SWENSON

361.1121 Kudrasheff, Alexander

The Minister in Norway (Swenson) to the Secretary of State

No. 961

OSLO, March 10, 1927.

[Received March 25.]

SIR: Reference is made to the Department's instruction No. 298, of August 26, 1926, and to my despatches Nos. 903 and 918 of November 22, 1926 and December 27, 1926, respectively, with regard to the American citizens Kudrasheff,⁵ Chevalier, and Kopman, who have been imprisoned in Soviet Russia.

In a note dated the fifth instant the Norwegian Foreign Office informs this Mission that the Norwegian Minister at Moscow advises as follows:

"I have ascertained that Aaron Kopman has now also been freed and has gone to Riga. He was kept for a time in a prison camp in North Russia. On November 19th he was transferred to Moscow where he was detained in various prisons until on February eighth an agent of the G. P. U. delivered him to the Latvian authorities."

I have [etc.]

LAURITS S. SWENSON

STATEMENT BY THE DEPARTMENT OF STATE OF THE CONDITIONS
UNDER WHICH RUSSIAN PURCHASES IN THE UNITED STATES MAY
BE FINANCED

361.51 Am 3/-

*The Vice President of the American Locomotive Sales Corporation
(Charles M. Muchnic) to the Under Secretary of State (Olds)*

NEW YORK, October 17, 1927.

[Received October 19.]

MY DEAR MR. SECRETARY: In compliance with your suggestion I take pleasure in confirming in writing the salient points discussed with you in Washington on October 14th.

1. The State Railways of the U. S. S. R. are desirous of purchasing locomotives, cars and other railway equipment on the basis of serial payments extending over a period of five years or over.

2. The railway administration is prepared to offer reasonable guarantees for the fulfillment of the contractual obligations.

3. The present severe depression in the railway equipment industry makes it extremely desirable—if not imperative—to secure foreign orders so as to prevent a complete shutdown of such highly specialized plants.

4. The length of credit asked for may necessitate the manufacturers inviting the cooperation of one or more banks in financing such orders on a large scale.

⁵ In a despatch dated Feb. 28, 1928 (not printed), the American consul general at Berlin reported that he had been informed that Kudrasheff had died, on Jan. 31, 1927, of typhoid fever. (File No. 361.1121 Kudrasheff, Alexander/1.)

5. The banks may find it desirable to sell securities to the public, which would be secured by notes or other evidences of indebtedness received by the manufacturers for the materials sold to the railways of the U. S. S. R. and further secured by the manufacturers who furnished such equipment, so that the ultimate risk is to be borne by the manufacturers to the value of their orders or jointly with the bankers.

6. Such financing of purchases by the railways of the U. S. S. R. could not, therefore, be construed as a monetary loan to that country.

These in substance are the principal points I brought to your kind attention. I do not know whether it would be feasible to consummate such a transaction in the immediate future and on terms entirely satisfactory to our manufacturers, but if it were possible to do so, would the State Department look with favor upon contracts obtained on approximately the terms and conditions above outlined?

The experience of our bankers and manufacturers in their dealings with the various purchasing agencies in our country of the U. S. S. R. involving short term credits has been that these agencies have lived up scrupulously to terms of every agreement and transaction.

From various sources of information we learn that German and until recently British manufacturers had extended large credits to the U. S. S. R. and that the payments on such credits were made punctually when due. It is also frequently stated that German manufacturers are planning to extend still larger credits, than heretofore, to that country which probably will be largely based on loans secured in this country, viz.:—such loans as were recently made to the Deutsche Bank and other German banks. American funds are, therefore, indirectly financing the U. S. S. R. purchases of such manufactures as that country requires.

Russia presents a large potential market for American railway materials. If our manufacturers of such materials can secure a firm foothold in that country at present, if we can induce them to adopt and adapt our standards it will enhance our chances for securing our full share of the large purchases of railway equipment when that country has progressed further along the road of economic stability and development and established a government that would permit of our maintaining a political contact with it.

Very cordially yours,

CHAS. M. MUCHNIC

861.51 Am 3/1

The Under Secretary of State (Olds) to the Vice President of the American Locomotive Sales Corporation. (Charles M. Muchnic)

WASHINGTON, November 28, 1927.

MY DEAR MR. MUCHNIC: I regret that I have not been in a position to reply more promptly to your letters of October 17 and No-

vember 15, 1927.⁶ The delay, however, has been due to the desire of the Department to give the most careful consideration to the matter which you brought to my attention on October 14, and the salient points of which you set forth in your letter of October 17.

It is hardly necessary, I believe, for me to say that the Department is fully aware of the potentialities of Russia as a market for American products and of the interest of American manufacturers in establishing connections with that country, even under the present régime. Accordingly, while the Government of the United States has not granted recognition to the régime now functioning in Russia, no restrictions are imposed upon the carrying on of trade and commerce with that country or with the Soviet régime, and no objection has been raised to the financing of ordinary current commercial intercourse; it being understood, of course, that individuals and corporations availing themselves of the opportunity to engage in such trade do so upon their own responsibility and at their own risk. The Department has objected, however, to financial projects involving the flotation of loans in the American market, and to banking arrangements not incidental to the sale of American commodities to Russia, that have amounted to proposals for making advances to the Soviet régime, which, as you know, has repudiated the obligations of Russia to the United States and its citizens, and confiscated the property of American citizens in Russia.⁷

With respect to the specific transaction in which you are interested, I may state that the Department would not desire to interpose any objection to American manufacturers of railway equipment granting long-term credit to the Soviet régime on purchases of locomotives, cars, and other railway materials, and that it would not look with disapproval upon banking arrangements incidental to the financing of contracts concluded along such lines with the Soviet authorities. The Department, however, would not view with favor any financial arrangement which involved the sale of securities to the public.⁸

Very truly yours,

ROBERT E. OLDS

⁶ Latter not printed.

⁷ See *Foreign Relations*, 1926, vol. II, pp. 906 ff.

⁸ On the margin of this letter, opposite this final paragraph, is the following notation in ink by Robert F. Kelley, Chief of the Division of Eastern European Affairs: "Drafted after discussion of this matter by Secretary with Mr. Mellon, Mr. Hoover and the President. RFK."

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY

852.6363/31 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, June 10, 1927—5 p. m.

[Received June 10—2:18 p. m.]

54. [Paraphrase.] I am informed from reliable sources that the Spanish Government plans an oil monopoly which may in the near future be put into effect suddenly by Royal decree. Details are not available but such a procedure would be in accord with the attitude of obstruction and opposition on the part of the Government toward all foreign business interests in Spain. [End paraphrase.]

Does Department desire me to obtain confirmation or denial from Primo?¹ This matter was referred to on page 5 of Embassy's despatch number 357, May 16th.²

HAMMOND

852.6363/37

The Ambassador in Spain (Hammond) to the Secretary of State

No. 409

MADRID, June 23, 1927.

[Received July 11.]

SIR: I have the honor to refer to the Embassy's telegrams No. 54 of June 10th, 5 p. m., and No. 61 of June 22nd, 12 noon,³ in reference to the probability of the establishment of a monopoly of petroleum products in Spain, and I am now transmitting herewith the Spanish original, and the Embassy's translation thereof, of a Government communiqué given to the press and published in *El Sol* of June 23, 1927,⁴ from which it would appear certain that a definite Decree is to be issued in the near future.

The probability of an oil monopoly has been referred to in several of the Embassy's weekly reports during the last two months. (See

¹ Lt. Gen. Don Miguel Primo de Rivera y Orbaneja, Marqués de Estella, President of the Spanish Council of Ministers and Minister of State for Foreign Affairs.

² Not printed.

³ Latter not printed.

⁴ Not printed.

page 4, despatch No. 357 of May 16, 1927, and page 7 of despatch No. 393 of June 13, 1927.)^s

From the above, and from a number of other indications, it now seems that the economic policy of the Spanish Government tends toward a state of affairs which may well be called Spanish business entirely for Spaniards. This tendency has often been referred to in recent weekly reports, and day by day it seems to become stronger. The Royal Decree of several months ago which provided for the nationalization of the automobile industry, the recent Decree granting greater facilities and advantages to foreign companies which might incorporate in Spain (and incidentally sell a majority of their shares to Spaniards), and the Decree about to be issued for the establishment of an oil monopoly referred to in the first paragraph of this despatch, all show the restrictive and hostile attitude of the existing Spanish Government to the investment of foreign capital in Spain unless it be placed in enterprises directed by Spaniards.

A number of far-sighted business men deplore this policy as they believe that the economic development of Spain will be greatly hindered thereby, but they seem to be powerless when confronted by the plans of the Government clique which naturally sees great profit coming to its members through getting Spanish industry entirely under the control of a number of intriguing members of the Council of National Economy.

Apparently General Primo de Rivera has been converted to the school of Spanish industry for Spaniards, and this is not surprising as Primo is primarily a soldier and from all indications has no background of sound economic education or knowledge to enable him to formulate a constructive and practical policy for the Spanish economic system. He is, therefore, guided by a number of far from disinterested advisers who hope to profit by the strangulation of foreign enterprise and who are clever enough to mask their real aims by an appeal to the pride of the Spanish people, the latter being constantly told that the Government is patriotically struggling to rid Spain of the dominance of foreign capital.

Naturally the Government is only too anxious to strengthen its hold on the country and its popularity in every way, and, when it is possible both to conciliate the majority of its supporters in the industrial and financial worlds and at the same time to make an appeal to the people which seems both plausible and reasonable, it is not difficult to foresee that the existing policy will be maintained at least until a crisis is brought about and the inability of Spanish industry to provide the country with either cheap or large enough production is thus clearly brought out.

^s Neither printed.

A number of well qualified observers believe that the present Government, if it carries its above referred to economic policy to a logical conclusion, will bring about a first-rate industrial and financial crisis in Spain, in the not very distant future. At the moment, however, the nationalization program holds the field, and it seems difficult if not impossible to secure a change of policy until actual results show that it is ineffective.

In regard to the proposed oil monopoly, concerning which a Royal Decree is to be expected very shortly, it is not yet possible to obtain information as to the exact form which the monopoly will take. From the best information available, however, it appears not improbable that the Spanish Government will endeavor to find, and possibly has already found, some interest to which the oil monopoly will be farmed out. At one moment the Embassy had reason to believe that the Shell Petroleum interests, working with Spanish capitalists, were endeavoring to come to terms and it would appear that the Shell Company is well able to do this because not only has it sufficient capital but it is already an owner of the majority of the stock of two Spanish companies which might well form the basis of the monopoly (*Sociedad Petrolifera Española* and *Sociedad de Comercio Exterior*). The Spanish press states that the Banco Urquijo controls the two companies above mentioned, but the Embassy is informed that the actual holdings amount to some 52% by the Shell interests and the balance is divided among the powerful financial group represented by the Urquijo Bank. Apparently the idea is that these companies might nominally be turned over to Spanish shareholders but that the Shell would at the same time secure a profitable contract to supply the crude material. There has been some rumor to the effect that the Spanish *Porto Pi*, an organization which is buying oil from Soviet Russia under contract and which is reported to be in bad financial condition, is to be included in the Spanish monopoly company which is to be formed.

The Embassy has, however, just received somewhat contradictory information from Mr. Brewster, the resident director of the Standard Oil Company (New Jersey) in Madrid, who has this morning returned from Paris where he and several of the high officials of the Standard Oil Company had a conference with the Shell interests. Mr. Brewster informs the Embassy that tentative discussions have taken place in regard to the participation of both the Shell and the Standard Oil Company in the proposed petroleum monopoly but as yet nothing has been definitely arranged. Another conference is, however, to take place in London this afternoon and he believes that in the immediate future some decision will be reached. In this connection the Department is referred to the Embassy's despatch No.

404 of June 21, 1927,^s which sets forth the difficulties of the Babel and Nervion Company, a subsidiary of the Standard Oil Company (New Jersey), having to do with an interpretation of the Spanish tariff which seems to discriminate unjustly against that company.

Nothing has yet developed in regard to the method to be followed to buy out foreign and Spanish interests by the monopoly company, and so far the Government secret has been well kept. The prevailing idea is that, in view of the profitable nature of the proposed monopoly both from the point of view of the Government and its backers in the business world, a fair price will be paid for all interests in order to stifle any possible outcry.

In view of the magnitude of the American interests involved in the petroleum industry in Spain and the probable injury to their business as the result of an oil monopoly, I have today asked General Primo de Rivera to give me an interview at his convenience, and I will discuss the matter with him in the light of the Department's telegraphic instruction No. 48 of June 16th, 11 a. m.^s The American interests which might be affected are, I believe, as follows:

(1) The two Standard Oil Company (New Jersey) subsidiaries, Babel & Nervion (refining), and Sociedad Española de Compras y Fletamentos;

(2) The Vacuum Oil Company, which does a business of some 12,000,000 pesetas a year but unlike the above two companies has no important vested interests in Spain other than its business good-will, which is considerable;

(3) The Atlantic Refining Company;—I am as yet unable to find out just what this company's investment amounts to but I understand it is important. I am informed that the total importation of petroleum and its products into Spain for 1926 amounted to over 100,000,000 pesetas and that more than half of the quantity imported came from American sources.

As set forth briefly in Mr. White's despatch No. 264 of January 20, 1927,^s there will probably be a deficit of some 60,000,000 pesetas in the actual budget for the present year, but no provision has been made for the so-called extraordinary budget for public works, etc., which amounts to some 300,000,000 pesetas yearly. In view of this state of affairs it is not surprising that the Government is looking for additional sources of revenue, and a monopoly of petroleum and allied substances would seem to be a heaven-sent opportunity for the Government to obtain money notwithstanding the tremendous amount of technical difficulty involved in the establishment of a monopoly.

The Department will note from the enclosed statement^s that the Government endeavors to propitiate public opinion by stating that

^s Not printed.

the proposed monopoly will both increase the public revenues and will at the same time reduce the price of the commodity to the consumer. Just how these two most desirable and apparently conflicting ends are to be reached is not as yet clear, but any criticism of the scheme has been eliminated by the censor and in public the Government statement remains undisputed. One of the French directors of the Industrias Babel y Nervion, referred to above, informs the Embassy that from what he has heard the price of the petroleum products under the new monopoly will be substantially raised to the public, but he is also informed that the Government will announce that this rise in price will be only a temporary phase of the working of the monopoly, which will ultimately give the Spanish people the benefit of a great and economically run national organization.

The Commercial Attaché has been going into this matter at considerable length, and the results of his inquiries to date are embodied in an extremely confidential despatch which is being forwarded by him to the Department of Commerce today. Copies of this despatch are transmitted herewith,⁹ from which the Department will note that although the Commercial Attaché has seen the tentative draft of the proposed Decree he is unable to get from a hasty reading any very exact details. He does not know, moreover, whether this draft will be definitely accepted. He informs me, however, that the proposal is, roughly, to farm out the monopoly as set forth in the first part of this despatch, and apparently the Spanish Government desires to pit one interest against another in order to extract the best terms possible, it being well understood that the consumer will pay the bill. From all indications the Government does not intend to use the already overburdened public credit in aid of its latest experiment in the field of high petroleum finance.

Reference to the restrictive policy of the Spanish Government in regard to foreign enterprises, which is well illustrated by the projected oil monopoly, has been made in several of my confidential letters to the Secretary of State, and notably in my last confidential despatch, No. 406 of June 22, 1927.⁹

I have [etc.]

OGDEN H. HAMMOND

852.6363/40

*Royal Decree-Law No. 1142 of June 28, 1927, as Published in "La Nación," June 30, 1927*¹⁰

[Translation]

Upon proposition of the Minister of Finance in accord with the Council of Ministers,

⁹ Not printed.

¹⁰ Transmitted to the Department by the Ambassador in his despatch No. 416, July 5, 1927: received July 18.

I decree as follows:

ARTICLE 1—A Government Monopoly is established on importation, industrial handling of all kinds, storage, distribution and sale of mineral liquid combustibles and the derivatives thereof as covered in Group 3, Class 1, of the present customs tariff. Said Monopoly shall comprise, in the manner to be determined in each case by the Government acting within its normal jurisdiction, the securing in the country of combustibles of the said mineral species, or production in the country, importation and sale of any other liquid combustibles of mineral or vegetable origin.

The Monopoly shall have jurisdiction over the forty-seven provinces of the Peninsula and in the Balearic Islands. The Government may extend it to the Canaries and territories under its sovereignty in North Africa.

ARTICLE 2—The Monopoly created by the present Decree-Law shall be administered by the Company which, having the necessary requirements as herein stated, shall have the service thereof assigned to it through public competitive bids to be hereafter made.

ARTICLE 3—The competition referred to in Article 2 shall be announced in the *Gaceta* within five days from the publication of this Decree-Law and shall be held two months thereafter, before a Board composed of the Directors General of the Seal, State Law Bureau, Customs and Public Taxes, also representatives of the Supreme Tribunal of the Public Treasury, the National Council of Combustibles, and the Ministries of War, Marine and Fomento; the Secretary being a Chief of the Treasury Administration designated by the Minister of the Treasury.

In order to participate in the competition it will be indispensable to deposit in the Bank, at the disposition of the Board mentioned in this Article, the sum of 2,000,000 pesetas in State securities which shall be devoted in due course to the execution of the obligations arising from the adjudication.

ARTICLE 4—The competition shall be based upon State participation in the capital stock, the amount thereof to be assigned to the benefit of the Leasing Company, the rate of taxation, the capital of the organization, the period of time within which the industrial refinery and the construction of tankers may be effected, the importance and security of the resources of the said leasing entity, the original price and quality of the products subject to the monopoly and such other circumstances as may relate to the efficacy and yield of the Monopoly, to the guaranty and solvency of the leasing entity and the best execution of the obligations that may be imposed thereon; it being also necessary to consider presentation to the State of a certain sum, once only, as a commission for the adjudication of the

Monopoly equivalent to the minimum profits during one or several of the first years on the basis of prices below the maximum to be expressly determined, and such others as may involve benefit to the State or to the consumer.

All these conditions shall be freely and jointly considered primarily by the Advisory Board and, for settlement, by the Council of Ministers.

ARTICLE 5—The Board before which the competition is to be held, once it is settled, shall report within 15 days in due form the adjudication in reference. This having been done, and the plenary Council of State having taken cognizance thereof, the Government, by a Royal Decree prepared by the Council of Ministers, shall make adjudication of the service, being empowered to reject all the proposals if it is considered expedient for the public interest.

There shall be no appeal against the decision of the Government.

The Leasing Company shall be legally constituted, if such is not the case already, within fifteen days following notification of granting the adjudication.

ARTICLE 6—The Monopoly Leasing Company, which shall have the status of a stock company, shall be Spanish as to capital and organization. To this two-fold effect:

(a) The general capital shall belong wholly to Spanish individuals or entities, to which end the stock shall be registered and inscribed in a special record book to be kept by the Company, and in which shall be stated the original adjudication or subscription, as also transfers subsequently made, which shall be without effect unless duly authorized by the Council of Administration.

When, through hereditary succession or other valid legal right ownership of stock shall devolve on foreigners, the latter shall have to place them at the disposition of the Council of Administration, which, in their name, shall transfer them to Spaniards. Should such transfer be impossible the Company shall amortize the stock in question, making payment therefor.

(b) The President of the Council of Administration and all its members, high officials, experts technical and administrative both of the Monopoly and of the Leasing Company, shall be proven Spaniards, as also at least 90 percent of the other personnel.

ARTICLE 7—The Leasing Company of the Monopoly shall have a minimum general capital—exclusive of reserves and shares issued in Spain—of 125,000,000 pesetas entirely free for the execution of the contract.

State participation in the capital stock shall be made and recognized to at least 30% of its value without any disbursement whatsoever and in like manner as the shares or allotments of founders. This participation shall not be in diminution of the said capital stock

but, on the contrary, in excess thereof. Consequently the capital stock shall be constituted as follows:

(a) For distribution to shareholders, not less than 125,000,000 pesetas.

(b) For acknowledged participation on the part of the State, not less than 30% of said distribution.

The State participation shall be represented by bonds registered and untransferable except by legislative enactment. These bonds shall enjoy the same benefits and prerogatives as the rest of the shares; and in case of dissolution of the Company, if a surplus should exist, upon the return of the nominal capital of the shares of the shareholders the State shall be entitled to receive the nominal value of its participation as if it had purchased it. Should any surplus exist it shall be distributed among the shareholders in proportion to their respective holdings.

No increase or reduction may be made in the capital stock without authorization of the Ministry of Finance. The Company may, under no conditions, issue bonds; but, under authorization of the Ministry of Finance, it may obtain bank credits required for the development of its services.

ARTICLE 8—The Leasing Company shall pay as a basis of taxation a maximum of 4% on the net profit of its income up to 75,000,000 pesetas; 5% on excess of that sum up to 150,000,000 pesetas; and 6% on any excess over that sum. This rate shall be consistent with a minimum interest of 5% on the capital stock referred to in Article 11.

When the profits of the Company, together with the guaranteed interest and the taxes, shall exceed 10% of the capital stock, inclusive of State participation, the surplus shall be distributed as follows:

Of the amount over 10 and not more than 15%, the State shall receive 25%; and the rest shall be for the Company.

Any excess profit of over 15% shall be shared equally by State and Company.

The said participation shall be no obstacle to the State's receiving, in every instance, dividends on its shares at the same rate as those of the members of the leasing entity, and their amount shall be applied to reducing the prices of the products monopolized.

ARTICLE 9—The special obligations of the Company shall be:

(1) To intensify and stimulate the work of boring for natural petroleum in the subsoil of Spain.

(2) To promote the distillation of oil residuum, lignite, coal bearing soil and rocks, as well as the supply of benzol produced in gas factories.

(3) To acquire national alcohols for the manufacture of liquid combustibles by means of admixture with gasoline when it accords

with the general interests of the country, especially the interest of Viticulture.

(4) To develop technical specialists in industries connected with petroleum.

(5) To create petroleum stocks sufficient:

(a) To meet the necessities of commercial and industrial consumption in the country for four months; and (b) of national defence (War, Navy and Aviation) for a year.

(6) To equip the Monopoly within five years with the appropriate means for the maritime transport of petroleum brought from abroad.

(7) To establish, gradually, a refining industry so that in the first five year period at least 80% of the petroleum products consumed in the country may be manufactured therein.

(8) To acquire petroleum deposits in producing countries, and especially in Spanish America, either by direct purchase or through control of proprietary companies.

(9) To organize a distributing circuit of petroleum, gasoline and other products monopolized throughout the territory over which the Monopoly has jurisdiction, in order that sales may be facilitated in all towns and important petroleum centers.

(10) To turn over to the State, monthly, on anticipatory account of the annual profits that the Monopoly shall yield, a sum not less than one-twelfth of the net profits of the previous fiscal year, in accordance always with the regulation fixed in the contract, which shall also determine the anticipatory sums for the first year of the Monopoly.

(11) To organize, under the Tax Bureau, a special vigilance service for the repression of contraband.

ARTICLE 10—The Company shall have charge of all plants, stores, stocks and other installation destined for the importation, handling, storing and distribution of petroleum products in the territory under the Monopoly which shall expropriate and pay the industrial value for the said properties, either in shares of the Company at the current value of the same or in metallic currency, as desired by the respective owners. However, when said owners are foreigners, payment shall be made in metallic currency, and also, even if they are Spaniards, when the sum to be paid in shares would amount to 40% of the capital stock; in this latter case it will be necessary to take care of the application for shares in accordance with the ratio of expropriations to be made.

Valuation shall be made by a Board composed of three representatives of the State, one of the Company and another of the expropriated owner, against whose award recourse may be had to the Council of Ministers. The latter may revise the awards of the Board but

may not reverse them. The Ministerial decision shall be without appeal.

The Company shall only be obliged to take over such plants, stores, supplies and installations as constitute an industrial concern, independently of immovable property which, without being necessary for the industry, may be occupied by the respective proprietors for the purpose, and in such cases, with indemnity for the damage caused to the immovable properties.

Valuation for expropriation shall be entirely completed within a period of three months of the final adjudication of the competition to the Company.

Expropriation shall not be proceeded with if the interested party is opposed thereto except when, in the judgment of the Company and in expressed accordance with the Council of Ministers, it shall be regarded necessary to incorporate the installation in question with the Monopoly. This method shall only be adopted in such cases as, by their complexity, make it difficult to replace them in a short time and the lack of which might affect the service of the Monopoly during the period of installation.

ARTICLE 11—The following items shall not be deducted from the total revenue, in determining the net production, but shall be reckoned as entirely belonging to the Company:

- (1) Losses from damage and evaporation in shipment; and
- (2) After the contract has lasted ten years, 2% of the cost for personnel and equipment of the offices and dependencies of the Company, the same to increase each year until it shall reach 20%.

Charges that may be deducted in fixing the net profits, purchase costs and, if necessary, refining crude oils and other monopolized products upon approval of prices and contracts of supply by the Ministry of Finance; legal interest on capital stock employed in the enterprise, including interest on State stock; charges for ships and transport, and such others as may be necessary in execution of the Monopoly being duly justified and that may not be expressly excepted.

Such exceptions shall comprise expenditures of the Company made in equipping refineries and acquisition for the same, destined for the Monopoly of petroleum wells, tankers, buildings and stationary machinery required for the service, as well as for the extraordinary works executed by the same; but these shall be deducted annually from the revenue in fixing the net profits thereof, with the design of amortizing such expenditures in the percent ratio indicated by the Ministry of Finance according to the following maximum rates:

Up to 15% annually if for acquisition of deposits,

Up to 5% for purchase of tankers,

Up to 4% for acquisition of machinery; and

Up to 2% for construction or acquisition of buildings or special work on the same.

Under no conditions may these amortizations represent more than 20% of the gross annual yield of the Monopoly.

Company subscribers shall receive, upon final liquidation of the contract, the amounts represented by the difference between the total value of special expenditures referred to, made with the personal funds of the leasing entity, and that of the annual amortizations effected.

ARTICLE 12—A Government delegate shall be placed with the Leasing Company, who shall intervene in all acts connected with the exploitation of the Monopoly; shall effect reforms in favor of the State and shall attend the meetings of the Council of Administration without deliberative vote, so that when the Company may adopt measures prejudicial to State interests, or such as may be contrary to the contract, he shall suspend execution thereof, reporting same to the Minister of Finance for such adjustment as may be desirable. The Delegate shall intervene directly in accounts and cash transactions, his approval being necessary for all expenditures that may figure in the annual liquidations of revenue, as affecting the contract and authorizations granted thereon or provisions especially drawn up for its application.

The Government shall also appoint a number of Councillors, with voice and vote, who shall have status with those designated by the shareholders in the same proportion as exists between State participation and general stock.

With a consultative and, if necessary, a financial character, a Committee shall act composed of representatives of the State and of the consumers, which shall:

(a) Secure information concerning price rates of the monopolized products before they are applied;

(b) Secure, also, information concerning the quality of the monopolized products, drawing up, if necessary, complaints on the subject.

Approval of the Minister of Finance must specifically be given measures adopted by the Leasing Company involving expenditures in excess of 50,000 pesetas. Sums less than that amount shall be approved by the Government Delegate. Those made for purchase of deposits shall have the approval of the Council of Ministers.

Councillors and higher personnel of the Leasing Company may not exercise their functions without previous approval of their appointment by the Minister of Finance. Such higher personnel shall be regarded as persons whose salary shall exceed 10,000 pesetas a year, no matter what their duties may be.

Charges for personnel and equipment of the Government Delegation with the Company shall be paid in the first nine months of the duration of the contract, chargeable against the revenues, and constituting an item that may be deducted from the gross receipts. After the tenth year, these charges shall be for the State account, and in diminution of its net receipts to the amount of 2% for such expenses, to be increased 2% annually until 20% is reached.

The personnel of the Company shall under no conditions be entitled to State pension, administration classification or gratuity for length of service.

The personnel employed in sale of products monopolized, whether in warehouses, shops or fixed establishments, shall be appointed by the Company upon proposition of the Ministry of Finance, which, for that purpose, shall submit their names for each vacant place, with names of persons having the general characteristics required by the Government and the special qualifications considered expedient on the part of the Company.

The Council of Ministers shall approve the duties and salaries of the Company employees, as also any modification thereof.

ARTICLE 13—No duties of any kind shall be required for the importation of crude petroleum and its derivatives destined for the Monopoly. Nor shall import duty be imposed for machinery and equipment required for manufacture thereof which can not be acquired in producing plants established in Spain.

The Leasing Company shall be exempt from payment of the Utilities (Profits) tax on movable resources in the sense comprised in third tariff of the Law regulating that tax. Profits corresponding to State shares shall be exempt under the second tariff of the said Law.

The Monopoly shall pay annually to the Municipality collecting taxes on the monopolized products and which is deprived of such revenue by its establishment, an amount equal to that collected on this account during the last year.

ARTICLE 14—Duration of the contract shall be for twenty years, and if, at the end of that time, a new competition is announced for the service, the Leasing Company shall enjoy the right of consideration.

The contract to be drawn up with the Leasing Company shall stipulate the rules that shall govern final liquidation.

ARTICLE 15—The general accounts of the Monopoly shall be submitted annually to the inspection and approval of the Supreme Treasury Tribunal.

ARTICLE 16—The Government reserves the right to rescind the contract without assigning cause, and, in such an event, if in the consequent liquidation of the Company, its entire capital is not

regained, the State shall pay the difference. Annulment under such conditions shall be directed by the Council of Ministers and there shall be no recourse against their decision.

Annulment of the contract may be made by the Company at its charge and risk, and with the obligation to indemnify the State for damages sustained, should it voluntarily fail in the fulfillment of any of the obligations indicated in the contract.

The Ministry of Finance in such case shall grant the annulment after a hearing of the Company and consultation with the Council of State, and against the Royal Order thereupon legal appeal may be made.

ARTICLE 17—The bases above stated shall be developed in the corresponding contract which, after approval by the Council of Ministers, shall be made public by Royal Decree.

ARTICLE 18—From the publication of this Decree Law in the *Gaceta* it is prohibited to install new plants for the handling of petroleum and its derivatives, as also to enlarge those at present existing.

ARTICLE 19—Arrangements and details connected with the issue of the bids and adjudication thereof, until the Monopoly begins to function, shall be under the direction of the Stamp Tax Bureau, which in turn will take up pertinent matters with the Minister of Finance.

ARTICLE 20—All regulations contrary to the present Decree Law are annulled.

Done in my Embassy at London June 28, 1927.

ALFONSO

Minister of Finance,
JOSÉ CALVO SOTELO.

852.6363/46: Telegram

The Acting Secretary of State to the Ambassador in Spain
(Hammond)

[Paraphrase]

WASHINGTON, August 13, 1927—3 p. m.

65. Referring to your telegram No. 71, July 21, 3 p. m., and your telegram No. 76, of August 6, 10 p. m.¹¹ The following is for your information and guidance.

The oil monopoly decree of June 30 [28], 1927 has been carefully examined by the Department and the situation has been discussed informally with representatives of the Vacuum Oil Company and Standard Oil of New Jersey.

¹¹ Neither printed.

As you are well aware, this Government is opposed to the establishment of monopolies within the United States and of course regrets to see them created elsewhere. However, as the establishment of monopolies is generally regarded as a sovereign right, this Government could not effectively or appropriately object in principle to the creation of a Spanish oil monopoly. In case the projected petroleum monopoly should be put into effect, there is no reason to believe that there would be any modification in the established policy of this Government with regard to the protection of American property and vested interests abroad. That policy in general, it may be stated, calls for complete and fair compensation to be made to the expropriated companies for their property losses.

Any inquiries addressed to you by Spanish officials or by representatives of the American interests involved may be answered in the light of the foregoing.

As there seems to be a certain possibility that the Spanish oil-monopoly scheme may prove to be unworkable and may not actually be put into effect, it is the opinion of the Department that any direct observations to the Spanish Government on the subject at the present time would be premature and might be misconstrued and hence tend to increase the determination of the Spanish Government to put the decree into full force.

CASTLE

852.6363/55

The Ambassador in Spain (Hammond) to the Secretary of State

No. 476

SAN SEBASTIAN, August 26, 1927.

[Received September 14.]

SIR: With further reference to my confidential despatch No. 462, of August 15, 1927,¹² and to previous communications, concerning the petroleum monopoly, I have the honor to acknowledge the receipt of the Department's confidential telegraphic instruction No. 65, of August 13, 3 p. m., 1927, informing me that, after an examination of the Decree of June 30th [28th], while our Government regrets in principle the establishment of monopolies generally, the Department does not feel that it could appropriately or effectively object to the establishment of an oil monopoly in Spain.

I have carefully noted the Department's observations contained in the telegram above mentioned and shall, therefore, limit myself to observing and reporting to the Department the development of the project.

As stated in my weekly report of August 20 last,¹² at the Cabinet meeting held at Santander last week, consideration seems to have

¹² Not printed.

been given to the oil monopoly in spite of reiterated official denials, and, according to what I consider to be reliable reports, the project has thereby already sustained considerable modification in the direction of inviting the coöperation of competent private individuals in the institution of the monopoly and apparently of heeding legitimate objection which may be made in good faith thereto.

I still feel that, in view of the determined and apparently intelligently organized opposition in Spain to the monopoly, such as that reported in the Consul General's despatch of April 17th last, as well as the observations made by the French Government reported in my telegram No. 78, of August 9, 10 a. m., 1927,¹³ there is a possibility of its ultimate abandonment.

I have [etc.]

OGDEN H. HAMMOND

852.6363/59

The Ambassador in Spain (Hammond) to the Secretary of State

No. 500

SAN SEBASTIAN, September 6, 1927.

[Received September 19.]

SIR: Referring to my despatch No. 476, of August 26, 1927, and to previous correspondence on the subject of the institution of a petroleum monopoly, I have the honor to transmit herewith for the Department's information a translation of an article from *El Pueblo Vasco* of September 2, 1927,¹⁴ listing six organizations which presented bids on September 1st for the monopoly and describing the program envisaged by each.

As the Department will perceive from a perusal of the translation above mentioned, the monopoly is now receiving the interested support and attention of many of the most prominent financial institutions in Spain.

It is indicated that a decision of the board designated by the Government for the consideration of petroleum monopoly bids will be made within two weeks, after which it will be referred to the Council of State and subsequently to the Government for final settlement. The above-mentioned board is composed of representatives of the Supreme Treasury Board, the National Fuel Board, the Tax and Customs Bureaus, and the Ministries of State, War, Navy, Fomento and Labor.

It was hinted yesterday by the Counsellor of the French Embassy to a member of my staff that the resignation of Mr. Nervion of the firm of Babel & Nervion, a subsidiary of the Standard Oil Company of New Jersey, may have some connection with a possible desire on

¹³ Neither printed.

¹⁴ Not printed.

the part of Mr. Nervion to be considered as director of the petroleum monopoly.

I have [etc.]

OGDEN H. HAMMOND

852.6363/65

The Ambassador in Spain (Hammond) to the Secretary of State

No. 530

SAN SEBASTIAN, *September 23, 1927.*

[Received October 10.]

SIR: I have the honor to confirm my telegram No. 96, of September 22, 1927, 5 p. m.,¹⁵ regarding the acceptance on September 21st last by the Examining Committee and the Minister of Finance of the tender for the petroleum monopoly, to be constituted in accordance with the Royal Decree of June 28, 1927, submitted by the Banco Urquijo group (comprising, as the Embassy understands, the following banks: Urquijo, Hispano Americano, Bilbao, Vizcaya, Herrero, Cataluña, Hispano Colonial, Marsans and Español de Credito). While Ambassador Padilla ^{15a} yesterday confirmed the above information, no official announcement has been made as yet and none is expected for a few days until the final decision of the Council of State has been made.

In this connection, it may be of interest to the Department to know that I received a visit not long ago from Mr. John Walsh, brother of Senator Walsh of Montana, who came with a circular letter of introduction from the Secretary of State, to discuss with me the aspirations of the American Republics Corporation (incorporated in the State of Delaware), of which Mr. Walsh is General Counsel. He informed me that the firm of Sabadell and Henry, of Barcelona, refiners of oil supplied by the American Republics Corporation, hopes to refine the oil for the petroleum monopoly, in which case, a contract is to be made with the Petroleum Export Corporation, a subsidiary of the American Republics Corporation above mentioned and guaranteed by them, to furnish crude oil for refinement.

On September 22d last the Embassy received information from the British Embassy that the latter has requested an interview with General Primo de Rivera for Mr. Wescott, representative of the Shell Oil Company of Spain, for some time after September 26th next, at which audience, the British Embassy stated, Mr. Brewster, Managing Director of the Babel and Nervion Company in Spain, a subsidiary of the Standard Oil Company of New Jersey, likewise desired to be present, which might indicate that an understanding has been reached between these two important British and American petro-

¹⁵ Not printed.

^{15a} Don Alejandro Padilla y Bell, Ambassador to the United States on leave in Spain.

leum interests with regard to the policy to be pursued in relation to the oil monopoly. Up to the present time, however, the Embassy has received no request from Mr. Brewster to obtain an audience for him with General Primo de Rivera.

The Department will recall, regarding the above, that, as reported in my telegram No. 89, of August 29, 1927, 5 p. m., and my despatch No. 487, of August 29, 1927,¹⁶ that the Board of Directors of the Babel and Nervion Company decided to desist from making further diplomatic protests against a fine imposed upon it by the Spanish Government, and to pay the fine as imposed in the hope of thereby obtaining a more favorable position in connection with possible relations with the Spanish oil monopoly.

I have [etc.]

OGDEN H. HAMMOND

852.6363/70

The Ambassador in Spain (Hammond) to the Secretary of State

No. 562

MADRID, October 12, 1927.

[Received October 22.]

SIR: Referring to my despatch No. 530, of September 23, 1927, on the subject of the request of Mr. Brewster, of the Standard Oil Company of New Jersey, for an interview with General Primo de Rivera in company with Mr. T. D. Wescott, of the Royal Dutch Shell, I have the honor to inform the Department that I am in receipt of advice from Mr. Brewster that although an audience was twice granted to him and to Mr. Wescott, each time at the last moment General Primo de Rivera excused himself.

The second time this happened the representatives of the Standard and Shell interests left a joint memorandum for the President of the Council. There is transmitted herewith, for the Department's information a copy of the memorandum, which states in effect that neither organization would be able to enter into any relations with the Spanish oil monopoly looking to supplying the latter with petroleum.

I believe that the Department will find this memorandum of considerable interest, not only in connection with the present petroleum situation in Spain, but also as an instance of the coöperation of a great American petroleum organization with another great foreign company engaged in the same business, and the adoption of an identic policy when threatened by a government policy which has as an end the restraint of free competition and the absolute monopolizing of a commodity of prime necessity.

I have [etc.]

OGDEN H. HAMMOND

¹⁶ Neither printed.

[Enclosure]

Translation of the Memorandum Left With Primo de Rivera, October 3, 1927, by Representatives of the Standard Oil Company of New Jersey and the Royal Dutch Shell Oil Company

1. In view of the continual increase in their business, the "Standard" and the "Shell" are constantly obliged to expand their sources of petroleum supply to all parts of the world where wealth exists; to improve more and more their industrial and commercial organizations and to increase their investments in the countries where they operate, as in Spain, in order to be always in a position to supply the consumption as it increases.

2. For this reason, there can be no better guarantee of supplies for a country, both in time of peace or in war, than the mere fact of the presence in that country of these two Companies.

3. The competition between both these Companies in the Spanish market has resulted in the country's obtaining the greatest perfection and facilities in the interior distribution, and the creation of stations for the regular supply to the Navy and mercantile marine, apart from the large revenue thereby apportioned to the Public Treasury. This rivalry, in result so beneficial to Spain, has been suspended in view of the threat to both Companies' interests which the Royal Decree of June 28th constitutes.

4. The great number of bunkering stations which both Companies maintain in the most frequented ports of the world, assures the normal supply of all boats, whether of the naval or merchant fleets, of the nations friendly to said Companies. No other petroleum group in the world can give the same facilities in such an important service.

5. The Companies in question cannot associate themselves in any part of the world with any organization on the basis of a Monopoly, as they know from many years' experience that monopolies tend fatally to raise prices, and also fatally produce the greatest deficiencies in service, and neither the "Standard" nor the "Shell" can compromise their international prestige by associating themselves with organizations which indisputably produce these results.

6. One of the objects of those groups being an investment of their capital in organizations for distribution and sale of petroleum products, it is evident that they must give their attention and care by preference to the countries in which they have capital invested, rather than to those from which they are forced to withdraw through the expropriation of their property.

7. For all these reasons, neither of the two groups, and both categorically make this declaration, can enter into relations with any propositions for monopoly presented at the tender of September 1st and they considered themselves obliged to make this statement to the

Government of H. M. the King in rectification of the rumors or insinuations which have been circulated against their determined attitude.

8. In spite of these intentions of both groups, and of this being the attitude which the "Standard" and the "Shell" hold everywhere, they have continued, regardless of the Royal Decree of June 28th, and will continue as long as there is a market open to all activities, to give the best service to the Spanish consumption, as if no grave menace threatened them, not merely on account of due estimation for their Spanish clientele, but because they have confidence in the spirit of rectitude of the Government of Spain, and are sure that the latter will not follow a course which, in their opinion, will harm and retard the industrial and social progress of the country.

852.6363/68 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, October 21, 1927—11 a. m.

[Received 1:45 p. m.]

105. Royal decree published *Official Gazette*, October 20, gives director general of stamp tax full powers to take any action necessary to assure supply, distribution, and sale of petroleum products until the monopoly company, which has been awarded to banking consortium by another decree of same date, is in normal operation.¹⁷ Director is instructed to take all needful measures to assure full supplies and avoid disturbance to consuming public. Minister of Finance is allowed to seize immediately any or all petroleum producing or distributing organizations if he judges it in the public interest. When Minister of Finance judges it necessary he will place before the Council of Ministers proposals for all or any seizures of property, indemnification therefor being made later in accordance with article 10 of original petroleum monopoly decree of June 28. Stamp Tax Director can impose fines up to 25,000 pesetas on any interest obstructing the execution of above-mentioned provisions and in very grave cases criminal proceedings and higher fines may be inflicted by agreement of Cabinet.

Original decree June 28 prevents ordinary legal recourse to the courts for the protection of property and provides a special organization to determine indemnification, the interested company only being allowed to make representation to a committee which may decide arbitrarily on its value. Another telegram on the same subject follows.

HAMMOND

¹⁷ For texts of decrees, see pp. 677 and 678.

852.6363/69 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

[Paraphrase]

MADRID, October 22, 1927—10 a. m.

[Received 12:25 p. m.]

107. My telegram 105 of October 21, 11 a. m. Foreign oil interests here are apprehensive that their stocks and property may be seized at once and inadequate compensation given. The capital of the Spanish monopoly will not be over 250,000,000 pesetas. This would seem to be insufficient to provide working capital and likewise give adequate compensation for the fixed property of the companies for which 200,000,000 pesetas would be claimed.

More than 75 percent of the property used in the production and distribution of petroleum products is in the hands of American, French, and British interests and it is their belief that the Spanish Government intends to provide compensation only for stocks on hand and fixed plant, less depreciation, and to ignore for purposes of compensation all business goodwill.

Considerable friction will probably be produced by the arbitrary nature of the Royal decree and the foreign interests involved may ask for the intervention of their Governments. In case of necessity am I to be guided by Department's telegram No. 65 of August 13, if fair compensation should be given for value of going concern and business goodwill?

HAMMOND

852.6363/72

Memorandum by the Chief of the Division of Western European Affairs (Marriner)

[WASHINGTON,] October 24, 1927.

Mr. Campbell and Mr. Johnston of the Standard Oil Company of New Jersey called to inquire about the Spanish oil monopoly and what, if anything, the Government could do to assist the American companies interested. I told them that until there was evidence of some denial of justice in the working out of the scheme for indemnification which the decree set up there was no action which this Government might properly take except to have the Ambassador state, as has already been done, that it is to be hoped that the enforcement of the decree will result in adequate compensation for property seized. I likewise told them that should there be any evidence of discrimination in favor of the interests of the nationals of other foreign nations we would be justified in protesting on that account. They seemed to understand these limitations perfectly and told me that they had re-

ports from Madrid that the Ambassador and the entire staff had been very helpful and cooperative during the whole matter.

They also stated that as their company did not approve of the monopoly system of distribution, they intended to refuse to supply the Spanish monopoly and thought that this would be the attitude likewise of the Shell and Royal Dutch Companies but that they would ascertain this point and let me know. They likewise stated that on the whole they preferred their plants to be abandoned and lie idle than to have them seized by the Government and naturally would not interpose any objections to such an act. I inquired whether they had consulted their lawyers in Spain on the subject and they replied that they had done so but that no comments could be made at present as there were no cases as yet under the decree. They seemed to think that the Spanish had embarked on a tremendous enterprise which they would never be able to carry out as they apparently plan to provide ships to carry petroleum and even hint at the possibility of embarking in the development of Venezuelan land to supply their monopoly. This, without the aid of foreign loans, seemed to them impossible.

J. T[HEODORE] M[ARRINER]

852.6363/76

The Ambassador in Spain (Hammond) to the Secretary of State

No. 583

MADRID, October 24, 1927.

[Received November 5.]

SIR: I have the honor to refer to my telegrams, No. 105 of October 21st, 11 a. m., and No. 107 of October 22nd, 10 a. m., having to do with the recent Royal Decrees to put into effect the Government Petroleum Monopoly, and I am now transmitting herewith the Spanish text of the two Decrees, Royal Decree-Law No. 1753 dated October 20, 1927, and Royal Decree No. 1782 dated October 21, 1927, together with English translations thereof.

For the last few weeks it has been taken for granted that the Government would carry out its original determination to put the Petroleum Monopoly into effect, notwithstanding considerable opposition from important elements in Spanish business and industrial life. The appearance of the Decrees has therefore occasioned little comment in the press, and it would seem that the uselessness of past criticism as well as the increased activities of the censor have both contributed to the passive attitude of the press and of public opinion.

The motives which have influenced the Government to make effective the measure which, to all appearances, is very unpopular among the more educated classes of the country are still obscure, and so many varied reasons have been given, many of which have been re-

ferred to in past despatches on this subject, that it seems useless to go over them at this time. Briefly stated the outstanding and most plausible reasons of the Government are as follows:

(1) A desire to obtain an increase of revenue without increasing direct taxation. Most business men in the country believe that the Government will be unable to accomplish this result without an increase in price, but the Government still maintains that an increased revenue will be obtained.

(2) The belief that overproduction of petroleum now existing may enable Spain to take advantage of the keen competition now prevailing between the several oil producing companies.

(3) The Government's well known policy of making Spanish industry appear to be national in character, and giving advantages to Spanish capitalists to the detriment of foreign interests.

At the moment it is not possible to foresee how the Decrees will operate in practice, and the foreign interests affected by the first Decree above referred to are awaiting with considerable anxiety a move on the part of the Government. In my telegram No. 107 of October 22nd I referred briefly to the point of view of the several foreign interests in Spain, and I am now awaiting the Department's instructions in regard to the action to be taken should American interests be unjustly treated by the Spanish Government. In the meantime I believe it may be of general interest to the Department to have the views of both Spanish Government officials and private citizens who are either favorable to the Petroleum Monopoly or are neutral. These views have been put before me by Mr. Lewis Proctor, Vice-President of the International Telephone and Telegraph Company (and Manager of the Spanish National Telephone Company), an American in whom I have great confidence and who, being in touch with representative men of all classes in Spain, is thoroughly conversant with both sides of the issue in question. They are as follows:

It is believed by leading business men that the oil Monopoly is a hazardous enterprise and that the chances are it will not succeed. It is thought that about two years of experience will prove the futility of the plan.

The Minister of Hacienda, Señor Sotelo, was looking for new revenues to balance the budget. A friend of his suggested an oil monopoly; he seized upon the idea and persuaded General Primo de Rivera to back him up. The original Decree of June 28th was eventually issued. The nominal head of the Monopoly is Señor Ruiz Seren, the manager of the Urquijo Bank, and the operating manager is Señor Fierros, the head of the Match Monopoly.

The syndicate of bankers financing the Monopoly is required to hold 60% of the stock, the balance being sold to the public. The

interest on this stock is to be guaranteed by the Government, making the stock a safe investment.

The Spaniards who are favorable to the Monopoly claim that the action of the Government is not unfair to any interests; that Spain has a perfect right to maintain an oil monopoly; that all companies in Spain being of Spanish origin it is merely a family matter; that if any foreigners are hurt through the loss of good will, etc., many Spaniards through our prohibition law lost all of their good will and business in the United States and did not receive any compensation.

It may be of interest, also, for the Department to know that the reason why the Shell interests suddenly withdrew from the situation was because of a personal quarrel between Señor Ruiz Seren, the recently named Financial Manager of the Petroleum Monopoly, and the representative of the Shell interests, the latter being asked to leave the bank when the quarrel occurred. This quarrel was occasioned by a matter in no way connected with the oil Monopoly. The Standard Oil Company's refusal to join the Monopoly is based, I understand, on the position that company has taken as being opposed to monopolies and refusing to take part in them.

My sympathies are enlisted on the side of such companies as the Vacuum Oil Company and the Atlantic Refining Company, which have built up an excellent business as selling agents but with practically no physical assets to sell, their trademarks, good will and selling organization being their only assets.

Other elements will enter into fixing the compensation for property taken over. The Shell interests claim they have never made money in Spain owing to the low price of gasoline here. The same claim is made by the Standard Oil Company, hence any compensation that might be made to the companies will only include such physical property as may be of use to the Monopoly.

I am following the situation closely and shall report to the Department by telegraph any developments of importance.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure 1—Translation]

*Royal Decree-Law No. 1753 of October 17, 1927, as Published in
"Gaceta de Madrid" of October 20, 1927*

In accord with my Council of Ministers and on the recommendation of the Minister of Finance, I decree the following:—

ARTICLE I. Until the establishment of the Petroleum Monopoly, the General Stamp Tax Bureau shall have full authority, in accord with Article No. 19 of the Royal Decree of June 28th last, to regulate everything concerning the supply, distribution and sale of petroleum and petroleum products, it being its special business:

1. To intervene in the distribution of mineral oils already imported or which, until the establishment of the Monopoly, may be imported into Spain, adopting the measures which may be necessary to avoid partial shortages, undue hoarding in storage, or any other disturbances of the public consumption;

2. To propose to the Minister of Finance the provisional seizure of the installations, distributing lines and industrial elements connected with the service of petroleum when, in his opinion, it may be expedient to do so for the safeguarding of public service; and

3. To adopt all such measures as the supply of the national market may demand, dictating the necessary decisions and making arrangements in order to guarantee the needs of consumption.

ARTICLE II. The Minister of Finance shall submit to the Council of Ministers the proposal referred to under No. 2 of the previous article, and the Government will agree upon the seizures which it may consider necessary, with due regard to the indemnification applicable to each case, the amount of which shall be fixed in accord with the provisions of Article 10 of the Royal Decree of June 28th last.

ARTICLE III. The General Stamp Tax Bureau shall be empowered to levy on all those who oppose its orders, fines up to 25,000 pesetas. However, these fines may be protested before the Minister of Finance, within the period of ten days.

In case of extreme gravity or repetition of the offence, the Council of Ministers, at the recommendation of the Minister of Finance, may levy fines in amounts superior to that above mentioned, without prejudice to the criminal responsibilities which may be imposed.

ARTICLE IV. The number of officials necessary to carry out the work entrusted to the General Stamp Tax Bureau shall be assigned to that Bureau until such time as the Monopoly commences operations.

ARTICLE V. The necessary dispositions for the application of this Decree shall be dictated by the Ministry of Finance.

Signed in Ventosilla (Toledo) on October 17, 1927.

ALFONSO

The Minister of Finance,
JOSÉ CALVO SOTELÓ.

[Enclosure 1—Translation]

Royal Decree No. 1782 of October 17, 1927, as Published in "Gaceta de Madrid" of October 21, 1927

In accordance with the decision of the Commission studying the tenders and the full Council of State, on the recommendation of the Minister of Finance and in accord with my Council of Ministers,
I decree the following:—

ARTICLE 1. The administration of the Petroleum Monopoly is adjudicated to the firm which the representatives of the Banco Urquijo, Banco de Bilbao, Banco Hispano Americano, Banco Herrero, Banco de Vizcaya, Banco Español de Credito, Banco de Cataluña, Banco Hispano Colonial y Banca Marsans, signatories of the first of the propositions presented to the public tender, offer to constitute.

This adjudication is made in accord with the general conditions fixed by the Royal Decree-Law of June 28th last, with the benefits offered by the proposition in reference and with the following special conditions:

1. The premium of collection which the Company holding the Monopoly may receive shall consist of 4 per cent of the net product of the income, whatever may be the amount of the latter.

2. The associated banks signing the proposition shall guarantee the non-transfer to any outsider, during a period of six years, of 60 per cent of the capital, subject to the deduction of the shares given in payment for the expropriations, to which effect the form and characteristics of this guarantee shall be specified in the contract which the Monopoly company shall make with the State. The shares which may not be transferrable to outsiders may be held in the Bank of Spain in accord with the regulations which will be stated in the contract of which mention has already been made.

Furthermore, the associated signatory banks shall assume the obligation to cover the increases in capital which may be necessary, during a period of ten years, up to a maximum of 75 millions of pesetas, always on condition that the increased capital enjoys the same rights and profits as the initial capital. The temporary prohibition of outside disposal of shares, established in the previous paragraph, will not be applicable to shares representative of this increase in capital.

3. On the Board of Directors of the Company to be formed must be, as directors, two representatives, at least, of Spanish firms dedicated to the industries monopolized and which, either by initial subscription or by expropriation agreed upon, shall be holders of shares to the value determined by the company statutes.

4. The designation of regional and provincial representatives of the Company shall be carried out in the manner, and in accord with the regulations, as determined by the Minister of Finance.

5. The losses or damage suffered by the monopolized product may be deducted only from the total received income, for the establishment of the net credits, when such losses are due to accidents which are fully justified. The contract with the State shall determine what may be considered as accidental cases, for matter of reference.

6. The expenses of soundings, tests of distillation and the organization of technical specialists will be considered as included in the

fifth paragraph of Article 11 of the Royal Decree of June 28th last, the rate of yearly amortization being fixed at 1 per cent for drillings and distillation tests, and 10 per cent for the organization of technical specialists.

The amount of these amortizations, together with that of the other set forth in that paragraph, shall in no instance exceed 20 per cent of the gross yearly receipts of the Monopoly.

7. The contract shall determine what expenses, based on their character regardless of their amount, may be made with the sole approval of the Government Delegate in the Monopoly company.

8. The Monopoly shall recover the amounts which, on the basis of Article 13 of the Royal Decree creating the Monopoly, it has to pay to local corporations interested, by means of an increase in the price of the monopolized products sold in the terms allowed by the scope of jurisdiction of said corporations. Said increase in price will become ineffective when the corporations renounce the charges in question.

9. In the contract which the Monopoly Company has with the State shall be included the clauses necessary to effect the guaranteeing of liberty of action in the military and naval services, subject to the proposal submitted by the Commission considering the bids; and

10. The adjudication of the service to the Monopoly company shall become ineffective if, for causes due to the latter, the Monopoly should not commence operations in the period between the date of constitution of said company and January 1, 1928; but from the publication of this Royal Decree it shall answer for the normal supply of the national consumption.

ARTICLE 2. Within the five days following the publication of this Decree in the *Gazette*, will be published in it the propositions presented at the public tender held for the adjudication of the administration of the Petroleum Monopoly, the decision given by the Commission and that pronounced by the Full Council of State.

ARTICLE 3. The regulations necessary for the application of the present Decree will be made by the Ministry of Finance.

Given in La Ventosilla (Toledo) on October 17, 1927.

ALFONSO

The Minister of Finance,
JOSÉ CALVO SOTELO.

852.6363/73: Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, November 1, 1927—6 p. m.

83. Your 105 October 21, 107 October 22, and 110 October 29.¹⁸ On October 31 a representative of the Standard Oil of New Jersey

¹⁸ No. 110 not printed.

called at the Department to discuss the following cable which had been received from their Paris office:

"Referring to Spanish question at meeting just held with London friends present it has been unanimously agreed to maintain policy abstaining to supply Monopoly directly or indirectly and not to take any steps in this question without first consulting each other. Rumors have it that representative of Spanish Banking group has left for Berlin to negotiate with Soviet representatives. British Government has issued effective instructions to their Embassy at Madrid and we hope Washington Government will also take steps in this drastic action against established freedom of trade."

He asked if the Department could confirm the statement regarding the issuance of instructions to the British Embassy at Madrid and was told that you had been advised that the British Embassy had been so instructed. However the specific terms of your 110 October 29 were not communicated to him.

He then asked if the Department would support American interests to the same extent that the British Foreign Office was reported to be supporting the British companies, to which the reply was made that the Department would expect the Spanish Government to accord to American companies no less favorable treatment than it accorded British and other foreign companies. He was further informed that you had been authorized in August (see Department's 65 August 13, 3 p. m.) to answer inquiries by stating that the policy of this Government in general called for full and fair compensation to the expropriated companies for their property losses. However it was pointed out to him that it was impossible for the Department to make any precise definition as to what would be deemed to constitute full and fair compensation, particularly where the question of "good will" was concerned, and that each case would have to be determined on its own merits. It was further stated that the Department could not object in principle to the establishment of the monopoly by the Spanish Government and that its official interest at present was confined to the question of compensation.

He appeared to appreciate the position of this Government and understood thoroughly that the foregoing was given him for his private information.

You may answer inquiries in the light of the above information and you may further state your readiness to assist interested American companies which may become involved in expropriation proceedings in securing a fair hearing.

From what precedes you will perceive that the question of compensation for "good will" is necessarily one upon which the

Department can take no position except as each specific case of expropriation arises.

KELLOGG

852.6363/75 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, November 5, 1927—3 p. m.

[Received 4:30 p. m.]

112. Department's 73 [83], November 1, 6 p. m. British Ambassador has sent a note to the Spanish Government stating that his Government expects that an agreement regarding price will be made with any British interests affected by the monopoly and that adequate compensation must be made before expropriation. He fears that monopoly company may take over certain parts of property and refuse to take over others. Property not taken would [be valueless] thus devote [*devoting*] only 60 million pesetas to payment for existing distributing and manufacturing plants which Standard Oil Company's representatives estimate have a total replacement value of about 200 million pesetas. In view of British action I venture to suggest that we warn Spanish Government that we view with concern any action which will deprive American interests of the use of their property and investments made in good faith under former legislation and that we expect immediate and fair reimbursement for all such investments as may be either taken over or rendered valueless by the monopoly. The procedure outlined in the decree for taking over property foreshadows long delay, be valueless,¹⁹ and he believes this is a very serious aspect of the situation.

It seems to me that, in view of the precipitate action by the Spanish Government in depriving companies of their right to do business in Spain which was granted under former legislation, it is only fair that the Spanish Government should make adequate compensation for the entire investment made in good faith in Spain irrespective of whether it is actually needed to operate the monopoly. Considering the position taken by the British Government and the fact that the monopoly capital seems totally inadequate to provide fair reimbursement for foreign investments, I am apprehensive that British interests may endeavor to secure priority of payment by the monopoly thus jeopardizing payment to American interests.

A well-founded report is to the effect that monopoly intends to rewrite assessment of value and naturally it will be to the advantage of monopoly company to withhold payment for seized property as long as possible.

¹⁹ The phrase "be valueless" apparently should have occurred where bracketed in above.

Today I have just been informed that the American Republics Corporation through its subsidiary the American Export Corporation has secured a contract from the Spanish Government to assure the petroleum supplies of monopoly for 5 years at prevailing market prices from Texas producing districts, therefore it would seem that seizure of property on behalf of the monopoly is to be anticipated in the immediate future as at present monopoly has no storage or distributing facilities.

HAMMOND

852.6363/75 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, November 8, 1927—3 p. m.

85. Your 112, November 5, 3 p. m. In view of the circumstances which you report you are authorized in your discretion to inform the Spanish Government that while this Government has no thought of objecting in principle to the establishment of an oil monopoly in Spain, it is somewhat disturbed by reports which have reached it indicating that the capitalization of the corporation to exercise the monopoly and to pay for the property to be expropriated appears to be quite insufficient for the purpose; and that accordingly this Government is impelled to observe that it expects that the Spanish Government will grant full and fair compensation to all American interests concerned by which is meant the fair value of the property taken over and such damages as may reasonably be considered to have resulted to other property by reason of the taking. You may further state that this Government will expect for its nationals no less favorable treatment than that accorded the nationals of any other country.

You may inform the interested companies of your action in the premises.

KELLOGG

852.6363/78 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

[Paraphrase]

WASHINGTON, November 11, 1927—1 p. m.

89. The Spanish Ambassador has made a protest to the Department against the action of the Standard Oil Company of New Jersey and the Shell Oil Company in refusing to have dealings with the Spanish petroleum monopoly. He was informed that this was not a subject with which the Department was concerned and that the sole interest of this Government in the question was in obtaining proper compensation for any American companies which might be expropriated in connection with the establishment of the monopoly.

KELLOGG

852.6363/81: Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, November 14, 1927—5 p. m.

[Received 7:25 p. m.]

115. Department's 85, November 8, 3 p. m. I had an interview with Primo today during which I informed him of the anxiety of the American Government regarding adequate compensation for American interests prejudicially affected by the Spanish petroleum monopoly and said that my Government expected that fair compensation would be made and that the American interests affected would receive as fair treatment as those of any other nationality.

Primo replied that the Spanish Government has always given to American interests at least as favorable treatment as to any others and that when American property should be taken over by the monopoly full compensation would be made after appraisal by Spanish and American experts.

From the general trend of the conversation my impression is that Primo intends to operate the monopoly as at present constituted, acting upon what I believe to be the favorable advice of the Minister of Finance and other interested subordinates. Powerful interests are still endeavoring to counter the monopoly but it now seems highly probable that it will be given a trial.

HAMMOND

852.6363/86

The Ambassador in Spain (Hammond) to the Secretary of State

No. 622

MADRID, November 16, 1927.

[Received December 5.]

SIR: I have the honor to report that according to information which I have received from the Director of the Standard Oil Company of New Jersey in Madrid an inspector, representing the Petroleum Monopoly, was installed in the offices of Babel and Nervion, the Standard Oil Company subsidiary in Spain, on November 7th.

When the inspector presented himself in the company's offices he handed to the Director two orders of the Government which set forth his powers and authorized him to make a full investigation of the company's business. I am transmitting herewith an English translation of the orders in question, which have been given me by Mr. Brewster, the Director of the Standard Oil Company.

In view of the dictatorial powers of the Government and the fact that normal recourse of justice is ruled out by the Royal Decrees putting into effect the Petroleum Monopoly, Mr. Brewster did not

feel that he could refuse to admit the inspector delegated by the Spanish Government, and he informs me that so far the inspector's activities have been confined to studying the situation of the company's supplies of petroleum products and making complete lists of physical property, such as various industrial plants, tanks, tankcars, etc. Another inspector supplied with the same powers has been placed in the offices of the Shell Company and is, I understand, taking similar action.

This arbitrary exercise of power by the Government has naturally added to the ill feeling of the companies, particularly as they feel that they have never been given a fair opportunity to make a fair and direct presentation of their case to the Spanish Government.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure 1]

Translation of Communication From the Director General of the General Bureau of the Stamp, Match and Explosives Tax, and Representation of the State in the Tobacco Renting Company, to the President of the Board of the Compañía Arrendataria del Monopolio de Petroleos S. A.

EXCELLENT SIR: Under today's date the following Royal Order has been published by the Ministry of Finance:

"Illustrious Sir: In order to insure the fulfillment of the ends aimed at by the Monopoly of importation, distribution and sale of petroleum and its derivatives, and to attend, with the necessary care demanded by the circumstances, to the preparation of the new regime to be implanted on January 1st next, it is indispensable that from this moment intervention should be made in the interested companies, without hindrance to the latter in their present business, which they may continue to follow freely until the 31st of December of this year, in their own way and for their own account.

To this end,

H. M. the King has been pleased to dispose the following:

1. Through the persons nominated by this Ministry, immediate intervention will be made in the companies dedicated to the importation, distribution and sale of those products covered by the Monopoly created by the Royal Decree Law of June 28th last.

2. The inspectors will perform their duties indistinctly [*sic*] in any of the above mentioned companies, it being left to the Monopoly Renting Company to decide which firm or firms be inspected by each inspector, and if the latter should work in the central office of the firm inspected or in any one or more of its installations for the storing of the products in question, or of its organizations for the distribution and sale of same.

3. The functions of the inspectors will comprise the following ends:

a) The exact knowledge of stocks of all monopolized products, for which purpose they must be furnished with all antecedents of information and checking which said inspectors may deem necessary. Not only must they know the actual stocks in general, but also full

details regarding the way in which they are distributed throughout the country at a given moment, and the successive variations which these stocks may suffer on account of the sales effected.

b) The exact knowledge of the importations contracted for in relation to purchases made, of the freight contracts made with loading ports and ports of destination, dates of loading and unloading, and specifications giving the characteristics of said products in the usual way, as also prices and conditions of payment.

c) Detailed inventories of all the fixed and movable material constituting the fixed assets of each company with regard to storage, handling, packages, land and marine transport, distribution round the coast, pumps, and regarding the packages especially their situation in such a way as to simplify, in the opinion of the inspector, their seizure at an opportune moment when the Monopoly Company has to take over all the elements of the business.

d) Data relative to the office staff, as also to the technical and laboring staffs which is working with each of the inspected companies, with information as to each individual's length of service, salary, as also the relation which each one's work has to the other's.

e) Distributing system, giving exact outline of the zone of influence of each company which may not have extended its organization throughout the country.

4. The inspection must be carried out with all rapidity and extension necessary in order to arrive at a rapid and exact knowledge of all the points above-mentioned, to which end the inspector may request and verify the proofs which he may consider necessary in the presence of the Director responsible for each firm.

5. Besides the inspector who will carry out his functions in the main or head office of each firm, this Ministry can nominate another person or persons to inspect installations in branches of the same firms already inspected in their central offices.

6. The inspected firms may continue freely their present business for their own account until the last day of December of this year, and in the period between now and then they will come to an agreement with the Monopoly Company, through the inspector, regarding the formula for the change of regime, reciprocating all the necessary facilities for the respecting of those interests which have to cease in the business and those of the public which the Monopoly has to serve from the 1st of January next.

7. An inspection will also be made of those firms whether importing of [or?] otherwise, dedicating themselves to the distillation of or obtaining of petroleum products, or merely to the distribution of same.

8. It will however be possible to proceed to the seizure of inspected firms before January 1st next if requested and in accord with the Monopoly Company and approved by the State representation, without prejudice to the expropriatory procedure to be made in accord with the Royal Decrees of June 28th and October 17th last.

In the event of agreed seizure, this will be dealt with in accordance with the conditions agreed upon by the firm in question and the Monopoly Company after obtaining the approval of the State representation. If the seizure should be made by the State then the

procedure will be as dictated by the Government without prejudice to the subsequent negotiations for expropriation.

Which I inform you by Royal Order for your guidance."

Which I transmit to you for your information and corresponding effects.

Madrid, 3rd November 1927.

Director General
ANDRÉS AMADO

[Enclosure 2]

Translation of Communication From the Director General of the General Bureau of the Stamp, Match and Explosives Tax, and Representation of the State in the Tobacco Renting Company, to the President of the Board of the Compañía Arrendataria del Monopolio de Petroleos S. A.

EXCELLENT SIR: By Royal Order from the Ministry of Finance, dated the 3rd instant, I am informed as follows:—

"Excellent Sir:—In accord with the advices of the Royal Order of today:

H. M. the King has been pleased to nominate Don Santiago Amigó Puis, Don José Elorriaga Amallobieta, Don Miguel de Lás Primo, Don José Maluquer Nicolau, Don José María Permanyer Catalá, Don Laureano Pujol Denis, Don Luis Ribas Pujol, Don Pedro Ribera Arazusta, Don German Sanchez Marín, Don Ricardo Toll Masoliver, Don Santiago Verdaguer Comes and Don Manuel Alonso Sañudo, to exercise the function of inspector in the firms at present dedicated to the importation, distribution and sale of those products covered by the Monopoly created by Royal Decree-Law of June 28th last.

By Royal Order I inform you, for your guidance and effect. [""]

The Lord keep you many years.

Madrid, 3rd of November 1927.

Director General
ANDRÉS AMADO

852.6363/87

The Ambassador in Spain (Hammond) to the Secretary of State

No. 623

MADRID, November 16, 1927.

[Received December 5.]

SIR: I have the honor to refer to my telegram No. 115 of November 14th, 5 p. m., in which I gave a brief summary of my interview with General Primo de Rivera in regard to obtaining adequate compensation for the interests of American companies engaged in the

petroleum business in Spain which may be affected by the Government Petroleum Monopoly.

I started the interview by handing General Primo de Rivera a brief memorandum, a copy of which is transmitted herewith. Mr. Grummon, who accompanied me as interpreter, translated the substance of the memorandum to General Primo de Rivera who at once assured me that American interests would receive fair compensation, and that they would, as a matter of course, receive at least as fair treatment as the interests of any other country. He stressed the point that he always wished to do everything possible to favor American interests, and conveyed the impression that he considered he had done more for American interests in the past than he had done for other countries. He said that I might assure my Government that American interests affected by the Petroleum Monopoly would receive fair treatment and that he would confirm this statement by a formal answer to my memorandum. (He did not in any way commit himself to giving any details of just what this would mean in practice.)

I hoped that after delivery of the note General Primo de Rivera would open a general discussion of the Petroleum Monopoly in order that, if possible, I might put before him a brief outline of the attitude of the American interests affected. General Primo de Rivera remarked that one American company (this is doubtless the American Republics Corporation referred to in the Department's telegram No. 88 of November 10th, 4 p. m.²⁰) had already completed a contract for supplying a certain quantity of petroleum to the oil Monopoly and that certain arrangements had also been made with Roumanian interests. By his reference to an American company he evidently intended to give me the impression that all American interests were not opposed to the Monopoly, that the plans for the Monopoly were going well, and that supplies were assured, although his attitude is difficult to reconcile with the representations which the Spanish Ambassador recently made to the Department in regard to the refusal of the Standard and Shell interests to supply the Monopoly with petroleum. From different sources I also learn that the Monopoly is encountering difficulty here in obtaining supplies in the immediate future, and I can only presume that the interested Monopoly officials may be concealing the real situation from the President of the Council.

I was of course very desirous of obtaining a more accurate indication of what General Primo de Rivera's real views on the oil Monopoly were, and as the occasion seemed opportune I said that I should like to make certain friendly personal observations which I

²⁰ Not printed.

hoped he would accept in the spirit intended. He very cordially replied that he was always interested in obtaining different points of view. I then said that while Americans did not like the word "monopoly", both National and State governments were all interested in obtaining revenue without heavy cost of collection, and that in certain States of the Union the oil companies collected for the State governments a gasoline tax which was used for the up-keep of roads. Such a tax if levied in Spain and collected by the companies, say at 3 U. S. cents a gallon, would, I have been informed, yield a revenue of some 14,000,000 pesetas annually in addition to the present revenue.

General Primo de Rivera replied by saying that the Monopoly would give him more revenue than this. He said that the state was now getting some 30,000,000 pesetas, that he expected to get 60,000,000 annually from the Monopoly, and that this would increase by probably 20,000,000 pesetas a year. His remarks as here quoted seemed to me to show that he is entirely unfamiliar with the real facts, and that he is being greatly misled by scheming subordinates, as the Spanish Government obtained about 40,000,000 pesetas from petroleum taxes last year and present collections show an advance of about 10%. As far as the obtaining of any additional revenue (which he refers to under the Monopoly plan) is concerned, I believe this would be a physical impossibility unless the price of all petroleum products is substantially raised. Both General Primo de Rivera and other Spanish officials seem to believe that there is a large fund of profits in the distributing business which can be taken by the State, but I am assured that these profits have never been very large and that at the present time, granting the low price of petroleum, most of the companies are not obtaining any adequate return on their investment.

I finally observed that, in view of all the information I have been able to obtain, the future world production of petroleum is likely to be more limited, and that if world prices tended to rise the Monopoly might find it difficult to acquire the necessary supplies in view of the fact that production is very largely controlled by a few great interests. Primo countered this by reiterating that the necessary contracts had already been made with American and Roumanian interests, (he apparently ignores whether those interests are thoroughly reliable) and that he believed that the supplies of the Monopoly were assured for a number of years. The interview then ended, Primo stating very cordially that he was always glad to have my point of view and that in future some of the ideas which I had put before him might be useful.

As stated in my above-mentioned telegram, the interview left me with the impression that General Primo de Rivera intends to operate

the Monopoly, if it is possible to do so, notwithstanding the many and powerful interests which are trying to dissuade him from this policy. Apparently the question is now one of national pride, and unless some way at present unforeseen can be found to allow the Government to save its face he is unwilling to confess any failure in the Government's plans. Incidentally, such a confession would of course be very damaging to the prestige of the Directorate.

I now wish to give the Department a brief sketch of the general situation as it exists here today, as I believe this may possibly be useful in formulating a future policy.

Notwithstanding the very great pressure which has been brought to bear both from Spanish and foreign sources, the Government seems unwilling to make any fundamental change in its plans and in spite of rumors of wavering now seems determined to make the Monopoly effective. Some of the guiding reasons behind the Government's determination have been referred to in past despatches on this subject, and restated briefly are as follows: Hopes of increased revenue without increase of direct taxation; flattery of national pride by showing that the Spanish Government is able to brave the great oil interests, and is making Spain independent of foreign domination; the very natural hope of profit for those who have been instrumental in making the Monopoly effective; and the hope that the appointment of a vast number of new State officials provided for by the Monopoly will give Government supporters profits and thereby increase the hold which the Directorate has on the country.

In regard to the third reason above cited, I understand that Monopoly shares are now being sold by the bankers syndicate underwriting the Monopoly capital on a "when issued" basis at from 15% to 30% premium. The word is apparently being passed around that the Monopoly is a good thing, but acute observers believe that the bankers are taking the very first opportunity to unload on the public.

In regard to the last mentioned point, I have been informed that seventy-two regional directors, all prominent members of the Unión Patriótica, have already been appointed and that each Cabinet Minister is to have a certain part of Spain to use as a field for political patronage. From the point of view of securing any change in the Government's plans, this phase of the matter is very important as the Government naturally does not wish to take any position which would deprive it of supporters.

The obtaining of supplies for the Monopoly is apparently a question of considerable difficulty from the point of view of the Government, as it has already antagonized the great interests able to supply the Monopoly, and has necessarily had to bargain with many small and less important producers. There seems to be some bitterness on

the part of Spanish officials toward the Shell and Standard Oil interests, owing to the fact that these companies have at last categorically refused to treat with the Monopoly as such. The representatives of these companies have, however, time and again been refused access either to Primo or other high officials, when they wished to give expression to their views. They quite naturally feel, therefore, that they have not had fair treatment.

The companies have let it be known that they wish to do everything possible to meet the Spanish Government fairly, but that they have only been dealt with by receiving indirect messages from high quarters to the effect that the Government would like them to maintain adequate supplies of petroleum in Spain. They have never, however, received any assurance that they will receive fair treatment in regard to claims for property which may be seized and, moreover, the Spanish Government has never given any indication that it will be willing to pay a fair price for supplies of petroleum brought in.

Indirectly, these companies have conveyed to the Spanish Government the information that they are ready and willing to do everything possible, both in regard to adequate supplies of petroleum products in the future, and in regard to aiding the Spanish Government to secure increased revenues from petroleum.

The interests involved are, of course, opposed to the principle of government monopoly and, failing definite assurance in regard to the future, they do not feel that they should give any aid to government plans which have as an end the destruction of their enterprises which have been built up by long and patient effort. Under the circumstances I understand they have refused to bring in further supplies and they hope to force the Government's hand by leaving the country dry of gasoline toward January 1st, when, nominally, the Monopoly must be made effective. A recent Decree prescribes that the bankers' concession to operate the Monopoly will be void should all the conditions laid down by the Government, including adequate supplies, be unfulfilled by January 1, 1928. Apparently the Shell and the Standard interests now hope that the bankers will be unable to comply with these conditions and that an opportunity may yet arise to allow them to treat on favorable terms with the Government.

At the moment the question of national pride seems to be one of the most important factors in the situation, as the Government naturally dreads any possibility of failure. On the other hand, it is quite natural that the companies involved wish to do everything possible to protect their own interests, and it is very hard to expect them to provide adequate supplies for a Monopoly which intends to destroy them.

The general situation is, of course, becoming more tense from day to day, and both sides are doing everything possible to strengthen their position. The opposition of foreign governments does not yet seem to have had much influence on the plans for the Monopoly, and it would seem that the situation will very shortly be brought to a head by some positive action on the part of the Spanish Government. As I have already advised the Department by telegram, the British Ambassador has insisted that payment should be made in advance before any British property is taken over, but the Spanish Government has not yet answered his note. Yesterday the Shell Company was notified that the Monopoly wished to store a certain shipment of petroleum in one of the Shell depots. The Shell interests asked advice of the British Ambassador who tells me that he informed them that he could not give an opinion in regard to what action they should take. Apparently he based his somewhat negative attitude on the instructions of his Government, which only provided for the question of seizure and did not cover a request from the Monopoly for storage facilities. I am informed, however, from another source that the manager of the Shell Company has decided to refuse to comply with the Monopoly's request.

The Department is, of course, familiar with the arguments which the various American interests involved have wished to put before the Spanish Government, and I have on repeated occasions been urged to endeavor to convey these arguments to the Spanish Government. I have, however, been unable to do this, owing to the fact that the Spanish national pride is involved, and even in a friendly and unofficial way it has been impossible to discuss the Monopoly with any Spanish official because it is quite obvious that they resent any outside interference. I have, nevertheless, endeavored very discreetly to give American interests involved a chance to have their views conveyed indirectly to appropriate quarters, and I have reason to believe that high officials of the various American oil interests involved well realize the somewhat delicate position of the Embassy, and feel that the Embassy has done everything possible under the circumstances to obtain a fair hearing for them.

I have [etc.]

OGDEN H. HAMMOND

P. S. The attitude of the Shell and Standard Oil Companies, referred to on page 6 of this despatch, has naturally not been rendered more friendly by the appointment of a Government Inspector representing the Petroleum Monopoly in the office of each company. The duties of the Inspector are referred to in the Embassy's despatch No. 622 written this morning. The companies feel very keenly that the entire policy of the Government toward them has been arbitrary and unfair in the highest degree. They feel that having built up great

industries in Spain it was only just that the Government should have given them a fair hearing prior to taking a dictatorial decision which suddenly threatened their destruction.

[Enclosure]

The American Embassy to the Spanish Foreign Office

No. 379

MEMORANDUM

The American Ambassador, under instructions from his Government, has the honor to inform the Spanish Government that the United States does not wish to bring into question the policy of His Majesty's Government regarding the establishment of an oil monopoly in Spain. The American Government does, however, expect that the Spanish Government will grant to all American interests which may be affected full and fair compensation—by which is meant the fair value of the property taken over and such damages as may reasonably be considered to have resulted therefrom to their long established businesses.

The American Ambassador also wishes to assure his Government that American interests will receive no less favorable treatment than that accorded to the interests of any other country.

MADRID, November 10, 1927.

852.6363/88

*The Spanish Ministry of State to the American Embassy*²¹

[Translation²²]

No. 269

NOTE VERBALE

With reference to the memorandum of the Embassy of the United States at Madrid dated the 10th instant, the Ministry of State has the honor to inform the Embassy that the Spanish Government is able to inform the Government of the United States that the petroleum monopoly will apply to the interests belonging to the citizens of the latter country the same treatment as that which it will apply not only to citizens of other states, but also as is applied to Spanish citizens in all matters that relate to the valuation of petroleum industry properties which the monopoly may find it necessary to expropriate.

In making this valuation, the intrinsic value of such properties will be equitably and objectively assessed, but the alleged damages or

²¹ Copy transmitted to the Department by the Ambassador in Spain as an enclosure to his despatch No. 638, Nov. 23, 1927; received December 5.

²² File translation revised.

loss which may result to an industry which ceases to do business will not be taken into account, because this industry, like all others, is always subject to the sovereign decisions of the States concerned, which only have the obligation of protecting such industries so long and insofar as they allow them to do business and oblige them to pay taxes.

MADRID, November 16, 1927.

852.6363/83 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, November 18, 1927—5 p. m.

[Received 7:15 p. m.]

120. My 116, November 17, 5 p. m.²³ The last paragraph of the note in reference to the rights of the State over industries is certainly drastic and as interpreted by the head of Commercial Section of the Foreign Office means that the State has a right to take over any industry at any time without having any obligation whatever to take account of earning power and goodwill. Reference in the note of taking over such property as may be needed may mean that only a part of the property engaged in the petroleum business will be paid for and the rest will be left valueless on the hands of the companies. Such is apparently the plan of the monopoly. I beg to point out the importance of the principle involved in bringing any established industry to a standstill at any moment without proper compensation and to emphasize the necessity for full payment of all property invested in the petroleum business whether needed by the monopoly or not, as property not taken will represent almost a dead loss. Shell and Standard Oil have decided to cease bringing in supplies and fear that the dictatorial powers of the Government will be used to fine them heavily for obstructing the monopoly.

British Ambassador informs me he has had no reply to his note asking for payment of property at the time property is taken over and is today writing again for an answer. French Ambassador informs me he has decided to await developments and make no further representations until Spanish Government takes some definite action of expropriation.

HAMMOND

852.6363/83 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, November 22, 1927—6 p. m.

94. Your 116, November 17, 5 p. m.²⁴ and 120 November 18, 5 p. m. The Department believes that the representations made by you in

²³ Not printed; it contained a summary of the Spanish *note verbale*, *supra*.

²⁴ Not printed.

accordance with its 85, November 8, 3 p. m., adequately reserve the position of this Government as regards compensation for expropriated American companies. It will therefore await developments in such specific expropriation proceedings involving American companies as may arise rather than attempt at this time to discuss the matter further with the Spanish Government on the present hypothetical basis.

KELLOGG

852.6363/92

The Ambassador in Spain (Hammond) to the Secretary of State

No. 654

MADRID, November 30, 1927.

[Received December 16.]

SIR: Referring to the Embassy's despatch No. 638 of November 23, 1927,²⁵ regarding the Spanish Petroleum Monopoly, I have the honor to submit a further report concerning recent developments.

In the last paragraph of the above referred to despatch reference is made to the seizure of the Porto Pi Company by the representative of the Spanish Government (the Director of the Stamp Tax) acting on behalf of the monopoly. In this connection I am enclosing herewith copy of a letter from Mr. Henry Bedford, Paris director of the Standard Oil Company of New Jersey who was in Madrid last week, to Mr. Blair,²⁵ in which he gives his views of the seizure proceedings. Mr. Bedford also enclosed with his letter a statement in regard to the seizure, a copy of which is also enclosed herewith.²⁵

The Department will recall that the Porto Pi Company has been importing Russian oil, and as reported in a previous despatch on this subject²⁵ it is commonly believed that Mr. Juan March, one of the largest owners of the Porto Pi, originally encouraged the Spanish Government's plans for an oil monopoly hoping to use this threat against the Shell and Standard interests to force them to divide the whole of the Spanish business with the Porto Pi Company. I have been informed that in the last few months March has done everything possible to buy off the Monopoly, even offering 6,000,000 pesetas to the Spanish Government for a military hospital in Morocco if the Government would change its plans, but his efforts have been unavailing.

Up to the present time nothing has been done in regard to the reimbursement or ascertaining the value of the Porto Pi plants, and the recent seizure is a good example of the arbitrary powers with which the Government has armed the Petroleum Monopoly. In my last despatch on the Petroleum Monopoly I reported that in all

²⁵ Not printed.

probability other seizures could not be long delayed, and as this despatch is being written I have been informed that an order is being prepared today in the Ministry of Finance for the seizure of one of Babel and Nervion's plants. (Babel and Nervion is one of the Standard Oil Company of New Jersey's subsidiaries in Spain.) Within the last week this company has been requested to store oil for the Monopoly, but it was decided to refuse to do so as it is feared that it might prejudice its future position. The cargoes which the Monopoly wished to store were the cargoes another Standard Oil Company subsidiary had sold to the Monopoly, as reported in the Embassy's despatch No. 638 of November 23rd. I am transmitting herewith copies of the Spanish text, with translation thereof prepared by Babel and Nervion, of a letter sent to Babel and Nervion by the Petroleum Monopoly dated November 27th, and Babel and Nervion's reply thereto dated November 28th. The Department will recall that the Shell Company took the same position when it was requested to store oil for the Monopoly, and it will now be interesting to see how the Monopoly meets the situation. (See page 2 of the Embassy's despatch No. 638 of November 23.)

This morning a notice appeared in the press stating that the Monopoly has made arrangements for full supplies of petroleum products for the year 1928. From all the information available it is hard to believe that this statement is accurate, and it would appear that it is largely bravado and also an effort to reassure intelligent public opinion which is now rather worried about the future. . . .

The above mentioned developments are the most important which I have heard of during the past week, and I am now forwarding this despatch in haste by the pouch which leaves this evening. The Embassy staff is following all developments as closely as possible, and I shall forward another despatch on the Petroleum Monopoly, reviewing the situation, by the next pouch.

I have [etc.]

OGDEN H. HAMMOND

[Enclosure 1.—Translation]

The Compañía Arrendataria del Monopolio de Petroleos S. A. to the Industrias Babel y Nervion

MADRID, 27 November, 1927.

GENTLEMEN: In view of the immediate arrival of the S. S. *Barendrecht* and of the fact that approximately 585,000 liters of refined oil and 1,281,000 liters of gasoline, both at 15° C., are des-

tined to your installation in Alicante, we have counted on your installations for the receiving of said merchandise, trusting that you will have no objection to this, and hereby requesting your conformity.

We believe that the merchandise can be placed in empty tanks being in this way at the disposal of this Company.

We likewise trust that you will kindly give instructions to your staff in order that the discharge may be carried out as well as possible.

As this merchandise is our property, it is not subject to duty payment, and as regards the inspection of the discharge, this will be carried out by Customs officials who will receive their instructions from their Head Office.

Thanking you [etc.]

COMPañA ARRENDATARIA DEL MONOPOLIO
DE PETROLEOS S. A.

[File copy not signed]

El Director Adjunto

[Enclosure 2—Translation]

*The Industrias Babel y Nervion to the Compañia Arrendataria del
Monopolio de Petroleos S. A.*

[MADRID,] 28 November, 1927.

GENTLEMEN: We are in receipt of your favor of the 27th instant, requesting our conformity with the reception in our installations at Alicante of part of the cargo of the S. S. *Barendrecht*, which is on the way, and we beg to reply to same, requesting that you will not find in our reply any sign of a desire to put difficulties in the way of your Company.

Taking the Royal Decree of the 17th October with that of the 28th June, in which the Monopoly was established, it is clearly stated that before being able to utilize our industrial property, it is necessary to reach an agreement with the General Bureau of the Stamp Tax with regard to the expropriation and payment of the amount of the industrial value of such property.

While this is not done, we regret we cannot accede to your request.

We repeat that when we take this decision, we are not in any way guided by a desire to raise obstacles of any kind, but merely by the defence of the interests confided to our care.

Yours very truly,

[File copy not signed]

352.1153 St 2/- : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, December 1, 1927—2 p. m.

[Received December 1—12:32 p. m.]

132. Department's telegram 94, November 22, 6 p. m. The Spanish Government, acting for oil monopoly, has seized without compensation Alicante installations of Standard Oil subsidiary by order effective today. I have informed Spanish Government that I am aware of seizure and that I am reserving all rights in the premises.

HAMMOND

352.1153 St 2/- : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

[Paraphrase]

WASHINGTON, December 2, 1927—6 p. m.

99. Your telegram 132 of December 1, 2 p. m. Endeavor to learn whether this seizure is an isolated instance or whether property of other companies also has been taken over. Also whether arrangements were made in advance to determine the value of the property or to agree upon a price.

The following is for your information: The United States Government could not regard with favor any action of the Spanish Government which would single out for seizure the property of American companies without previous arrangements for prompt payment of the fair value of such properties along the lines given in the Department's telegram 85 of November 8.

KELLOGG

352.1153 St 2/1 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

[Paraphrase]

MADRID, December 6, 1927—noon.

[Received December 6—10:51 a. m.]

133. Department's 99 of December 2. The Porto Pi Company, a Spanish concern in which a minority interest is held by French shareholders, has already been seized in its entirety without a previous valuation having been made.

The Alicante plant of the Standard Oil is only partially usable for storing the supplies belonging to the monopoly which the company has been arbitrarily directed to take in charge with no offer of compensation. When partial seizure was made the company lodged formal protest. Two subsidiaries of the Shell Company have received seizure notices, presumably with the intention of using their

facilities for storing monopoly supplies. No valuation was made. Pressure is still being brought against the monopoly plans by many powerful influences, but it is likely that their efforts will be unsuccessful. The Government and monopoly officials appear to be confused since all are unfamiliar with the oil business and seem to be acting without a concerted plan.

HAMMOND

352.1153 St 2/2 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, December 7, 1927—3 p. m.

[Received December 7—3 p. m.]

135. Referring to the Embassy's telegram number 133 of December 6, noon. On December 5th the Standard Oil made a formal claim for valuation and indemnity for its entire petroleum properties,²⁶ the demand being based on article 10 of the Constitution, article 349 of the Civil Code, and article 10 of the Royal Decree of June 28th.²⁷ Also the Standard's Spanish subsidiary holds a charter from the Spanish Government dated 1918 and valid for 99 years. The communication from the company to the Minister of Finance is an able exposition of the whole situation; copies are being forwarded by mail. It is my belief that the moderate claims put forward by the Standard Oil Company in this letter will be regarded favorably by the Department and that they might well be given support in future representations.

I have received information that Primo de Rivera told the Duke of Alba yesterday that he had already been involved in absurd and endless difficulties by the petroleum monopoly and that he was disgusted with the business. However, it appeared, he said, that the Government had proceeded too far now to retreat and that the monopoly would have to take its course until it should collapse of its own weight or become involved in an open scandal which would enable him to eliminate it on patriotic grounds. Primo stated that he had been troubled by the representations made by ambassadors of foreign powers, which were difficult to counter and that he had given instructions to the oil monopoly that generous treatment should be given to foreign interests. It is difficult to reconcile this latter statement with the attitude of the monopoly to date.

BLAIR

²⁶ For text, see p. 708.

²⁷ *Ante*, p. 668.

352.1153 St 2/1: Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, December 7, 1927—5 p. m.

100. Your telegrams 132 of December 1, 2 p. m., and 133 of December 6, noon. This Government is concerned by reports indicating that the Spanish oil monopoly is proceeding to take over the property of oil companies with no attempt to make arrangements for the prompt payment of the fair value of such property. It should be observed that this Government expects that compensation will be paid for any American installations which may be seized, on the basis outlined in the Department's 85 of November 8, 3 p. m. It further expects that such payment will be made promptly and will look to the Spanish Government for fair compensation covering not only the value of the property seized, but also the use of the property up to the date of payment of adequate compensation.

This may be brought to the attention of the Spanish Government and the interested American companies may be informed of the action taken.

KELLOGG

352.1153 St 2/13

The Chargé in Spain (Blair) to the Secretary of State

No. 665

MADRID, December 7, 1927.

[Received December 28.]

SIR: Referring to the Embassy's confidential despatch for the Secretary and Undersecretary, No. 654 of November 30, 1927, I have the honor to submit a further report in regard to the recent developments having to do with the petroleum monopoly in Spain.

On Thursday, December 1st, in the Embassy's telegram No. 132, 2 p. m., the Ambassador reported that the petroleum monopoly had seized without compensation the Alicante works of Babel and Nervion, the Standard Oil of New Jersey subsidiary in Spain. This seizure was made under the provisions of several Royal Decrees establishing the monopoly and the Spanish text of the order of seizure together with the English translation thereof are enclosed herewith.

In the Embassy's telegram abovementioned, the Ambassador stated that he had informed the Spanish Government that he was aware of the Order of seizure and that he must reserve all American rights in the premises. A short note, No. 389 of December 1st, was accordingly sent to the Spanish Minister of State drawing attention to the sudden and arbitrary seizure of property legally owned by American interests and I am enclosing herewith copies of the note

sent. At this rather critical time, the Ambassador believed that by calling attention to the monopoly's sudden and arbitrary action and at the same time again reserving all American rights, General Primo de Rivera, who is never familiar with the details of technical organization, might be brought to realize more forcibly the serious nature of the complications which had arisen and that Spain was not likely to obtain any compensating advantages.

The Embassy has, moreover, reason to believe that General Primo de Rivera is already rather worried and irritated by the trouble that the monopoly has caused him, particularly as he had been assured . . . that the whole thing would be put through easily and with no trouble. For this reason, it seemed possible that Primo, irritated by the diplomatic representations in regard to the maintenance of property rights made by several great powers, might conceivably either sweep away his subordinates and change his policy, or might at least give orders to pay off all foreign interests involved at a fair value, in order to avoid future difficulties.

The note in question was sent to the Spanish Government on Thursday evening and at the time of writing this despatch, no reply has been received. The Embassy has been informed, however, confidentially, that the note has already had a certain amount of effect as it has caused the Spanish Government to realize the difficulties of the position and that it has, moreover, had the effect of staying other seizures for the time being.

The seizure of the Alicante plant has been made in a curious manner and would seem to show that the monopoly is acting in a rather confused and badly directed way. (See Embassy's confidential telegram No. 133 of Dec. 6, Noon). The monopoly officials, armed with Ministerial power, went to the plant, said that they only intended to use it temporarily for the storage of monopoly supplies and instructed the plant officials to take the necessary measures for unloading a part of a cargo. The local company officials made a formal protest before a notary and then conformed to orders. After the petroleum was unloaded, the monopoly officials informed the company that it would be responsible for the storage of the monopoly supplies until further orders and no offers whatsoever of compensation or insurance payments were made. The company again lodged formal protest.

This high-handed procedure has naturally placed the company in a very difficult position. It has, at least, avoided a danger which is, however, very likely to arise in the near future. The company feared that, as the plant might be taken over by the monopoly in its entirety without any valuation or proper inventory of the plant's physical condition, its value might well deteriorate rapidly in inefficient hands and that, when a Valuation Commission finally arrived, the monopoly

might state that any damages which had occurred was due to the condition of the plant before it had been taken over.

The Embassy will forward by the next pouch copies of the formal protests which the company had made at the time of the seizure of its Alicante installations.²⁹

In regard to the formal request for valuation and reimbursement which Babel and Nervion, the Standard Oil of New Jersey subsidiary addressed to the Minister of Finance, on December 5th,³⁰ and which is referred to in the telegram abovementioned, No. 132 [135], I am unable to forward copies of this letter today owing to shortage of clerical staff. The summary of it which, however, is given in my telegram, will I believe, give the Department the essential facts which the company has brought forward and I will forward the text of the letter itself by the next pouch.

I have [etc.]

PERCY BLAIR

[Enclosure 1—Translation]

The Compañía Arrendataria del Monopolio de Petroleos S. A. to the Industrias Babel y Nervion

The General Bureau of the Stamp Tax, as of today's date, communicates to me the following:

"Your Excellency:—Having recourse to the authorization which was conceded to this Bureau by Royal Order, recorded in the Council of Ministers, of the 22nd of this month, I hereby order, as of this date, the seizure of the whole or part of the installation which the "Industrias Babel y Nervion" Company owns in Alicante, as also the means of transport and sales which, for their supplies, depend on said installation, as the necessity may arise, in order that the important zone whose supplies are controlled from the installation in Alicante, may not experience a shortage of liquid fuel; and with due regard to the indemnization applying in accordance with Article 10 of the Royal Decree-Law of the 28th of June last.

"Which I transmit to you for your information and guidance.

"May the Lord keep you many years.—Madrid, 30th November, 1927.

"Signed: The Director General. Andres Amado, and sealed.

"To the President of the Board of Directors of the Compañía Arrendataria del Monopolio de Petroleos, S. A."

Which I in turn transmit to you for your information and guidance.

The Lord keep you many years.

Madrid, 30th November, 1927.

COMPAÑÍA ARRENDATARIA DEL MONOPOLIO
DE PETROLEOS S. A.

A Vice President of the Board of
Directors:

MARQUEZ DE CORTINA

²⁹ Not printed.

³⁰ *Post*, p. 708.

[Enclosure 2]

The American Ambassador (Hammond) to the Spanish Minister of State for Foreign Affairs (Estella)

No. 389

MADRID, December 1, 1927.

EXCELLENCY: I have the honor to inform Your Excellency that I have just learned of the seizure by the petroleum monopoly as of today's date of the Alicante petroleum installations of the Babel and Nervion Company, which is largely owned by American interests.

I understand that this particular plant has been taken over without compensation, and, moreover, that no arrangements have been made by the petroleum monopoly for its appraisal, as provided for in the several decrees establishing the monopoly. I am further informed that no time has been set for the appraisal of the properties of the above referred to company considered as a whole, with a view to compensation for the part which has not yet been seized but which is necessarily gravely prejudiced by the above mentioned partial expropriation.

Your Excellency's *Note Verbal* No. 269, of November 16, 1927, regarding this subject, in reply to my memorandum No. 379, of November 10, 1927,³¹ has been referred to my Government for its consideration, and I have telegraphically informed my Government of the partial seizure of the American interests above referred to.

Pending the receipt of instructions from my Government, I have the honor to inform Your Excellency that I must reserve all American rights in the premises.

I avail myself [etc.]

OGDEN H. HAMMOND

352.1153 St 2/9

The Chargé in Spain (Blair) to the Secretary of State

No. 679

MADRID, December 14, 1927.

[Received December 30.]

SIR: I have the honor to refer to the Department's telegraphic instructions No. 100 of December 7th last, 5 p. m., and No. 101 of December 9th last, 6 p. m.,³² in which the Embassy was instructed to make further representations to the Spanish Government in regard to the treatment which the Department expected would be accorded to American interests in Spain, to be taken over by the Petroleum Monopoly. I am enclosing herewith the text of the Embassy's Note to the Spanish Minister of State under date of December 12th, 1927, which I believe conforms to the spirit of the Department's instruction.

In my telegram No. 136 of December 8th last, 1 p. m.,³³ I reported

³¹ *Ibid.*, p. 698.

³² Latter not printed.

³³ Not printed.

that the British Ambassador had been instructed to make further representations on the above subject to the Spanish Government and I am enclosing herewith the text of the British Note.³³

In my telegram No. 136 of December 8th last, 1 p. m., I informed the Department that the French Ambassador had been instructed to make strong representations to the Spanish Government, such representations to be based on the apparent violation of the Treaty rights of French corporations and citizens by the Monopoly decrees, and the procedure which the Monopoly has adopted up to date. The French Ambassador informed me that his instructions left him considerable discretion in regard to the points he should raise in his Note, always provided that he based his representations on the above referred to principles. I am now enclosing herewith copies of the French text of the French Ambassador's note to the Spanish Minister of State, together with the Embassy's English translation thereof.³³

In the Department's telegraphic instruction No. 101, of December 9th last, 6 p. m., I note the Department's desire to have the representations made quite separately from those which might be made by the French Government, and when I informed the Department in a previous telegram that I had been advised that a French Note was in course of preparation, I had no idea of associating in any way this Embassy's representations with those to be made on behalf of the French Government. The French Ambassador had, in the course of a conversation, told me in a general way of the points which he intended to raise, and I believed that the Department might possibly desire to know the trend of the French representations before again calling attention to the points raised by this Embassy with the Spanish Foreign Office.

In my telegram No. 139 of December 13th last, 1 p. m.,³⁴ the principal points raised in the French Note under reference are briefly reported, and it seems to me that the French have made a strong and able exposition of their case. In a subsequent despatch I am reporting on other developments which have taken place during the past week in connection with the Petroleum Monopoly.

I have [etc.]

PERCY BLAIR

[Enclosure]

The American Chargé (Blair) to the Spanish Minister of State for Foreign Affairs (Estella)

No. 397

MADRID, December 12, 1927.

EXCELLENCY: I have the honor to refer to the Ambassador's Note No. 389, of December 1st last, in which Your Excellency's attention was drawn to the fact that the Alicante Petroleum plant of the

³⁴ Not printed.

Babel and Nervion Company, largely owned by American interests, had been seized by the Petroleum Monopoly before appraisal and without compensation to the interests affected. The Ambassador further informed Your Excellency therein that the American Government had been apprised of this action.

I now have the honor to inform Your Excellency that my Government is concerned by reports of the seizure by the Petroleum Monopoly of properties used for the importation and distribution of petroleum products, without any previous estimation of their value, or any arrangement providing for compensation for the value of the property from the time of such seizure. In the Embassy's Memorandum No. 379, left with Your Excellency on November 10th last, the Ambassador outlined briefly the point of view of the American Government regarding payment for property belonging to American interests which the Monopoly might take over, as well as other property thereby prejudiced.

In view of the seizures which have taken place since this date, my Government now instructs me to reiterate to Your Excellency that it looks to the Spanish Government for full and fair compensation for all American interests concerned, and that it expects that measures will be promptly taken for the evaluation and compensation, not only for property which has been seized up to the present time, but for the remaining property of the interests involved, which very naturally and reasonably may be considered to have suffered damages by reason of the seizures, and which is indeed gravely prejudiced from the point of view of conducting the Companies' normal business.

I am likewise instructed to inform Your Excellency that my Government expects that the Companies affected will be adequately indemnified for the use of any plant taken over by the Monopoly, for the period covered from the time of seizure to the time that appraisal and compensation are made for the property affected.

I avail myself [etc.]

PERCY BLAIR

352.1158 St 2/10

The Chargé in Spain (Blair) to the Secretary of State

No. 685

MADRID, December 14, 1927.

[Received December 30.]

SIR: I have the honor to refer to the Embassy's despatch No. 665 of December 7th 1927, in regard to the activities of the Petroleum Monopoly recently established in Spain, and to submit a further report on this subject.

In my despatch written this morning No. 679, I transmitted to the Department copies of the Embassy's Note of December 12th to the

Spanish Minister of State in regard to the recent seizures of property belonging largely to American interests, by the Petroleum Monopoly. Copies of the British Note of December 6th and the French Note of December 10th having to do with this subject were also transmitted with this despatch.³⁵

In the Embassy's telegram No. 135 of December 7th last, 3 p. m., reference was made to the formal protest, dated December 5th, which the Babel and Nervion Company had sent to the Minister of Finance in regard to the partial seizure of its property and its legal rights in regard to valuation and compensation. I am informed that the Company's protest was drafted in collaboration with Mr. De La Cierva, one of the most able lawyers in Spain, and the Department will note that the Company claims compensation for the value of its trade marks, good will, and the value of its business as a going concern. Mr. De La Cierva advises the Company that these assets have been recognized by decisions of Spanish courts and that the Company is well within its rights in claiming indemnities for intangible values. I am transmitting herewith copies of the Spanish and English text of the Company's protest above referred to, and also, copies of the Finance Minister's formal acknowledgment dated December 7th last.³⁶

On page 3 of the Embassy's despatch No. 665 of December 7th last, reference is made to the seizure of a part of the Alicante plant of the Babel and Nervion Company, and to the fact that at the time of seizure, the Company made a formal protest before obeying the order of seizure. The protests in question were drawn up by the Company's legal advisers in order that the Company's position should be clearly set forth in the future, and as I believe these protests may be of interest to the Department, I am transmitting herewith the Spanish text together with an English translation thereof.³⁷

On December 10th last, Babel and Nervion Company received a further communication from the Monopoly Company directing the seizure of Babel and Nervion's plant at Valencia. I am enclosing herewith copies in Spanish and English of the Monopoly's communication. I am informed by the Director of the Babel and Nervion Company that the same formal protests will be lodged when seizure occurs as in the cases of Alicante seizure.

As reported in several previous telegrams and despatches, it is more than ever apparent that both Government and Monopoly officials are trying to cope with problems which are far beyond their experience, and the hap-hazard method of seizure, of buying supplies piece-

³⁵ Neither printed.

³⁶ Acknowledgment not printed.

³⁷ Not printed.

meal, wherever possible, and of administration, all show the utter confusion of the present situation.

According to the Royal Decree providing for the Monopoly, the new Company should take over all operations having to do with the importation and distribution of petroleum products on January 1st. This would seem to be practically impossible, and the situation becomes more confused day by day. The various companies involved take the position that they wish to conform to the strict letter of the Monopoly Decrees, as they believe this method is best calculated to protect their interests. For this reason, they believe it best to close down all operations formally on January 1st 1928, and throw the whole burden of the country's petroleum business on the Monopoly. They realise that such a procedure may possibly expose them to arbitrary fines, and many difficulties with the Monopoly Company, but their legal advisers maintain that this method will force the Government's hand and may well produce a Royal Decree taking over the whole properties of the several companies. Such action would to some extent clarify the situation, as the Government would then be placed in the position of having to take over and compensate for the properties as a whole. At the moment the administrative machinery for valuation of the property hardly exists, and yet according to the existing decrees, the valuation should be completed in the immediate future. The Embassy has been informed that the present plan for ultimate valuation is as follows:

"The country has been divided up into seven zones, and each zone has been placed in charge of a commission, and with each of these commissions is associated a representative of each of the companies having property to be expropriated in that zone. These commissions merely make a physical inventory of the properties to be expropriated, noting at the same time the condition of the material, but they do not enter in any way into the question of placing any valuations.

"When these seven commissions have completed their work of inventorying, their reports are then to be assembled in Madrid and a general commission is to be formed with which will also be associated representatives of each of the petroleum companies, and it is this commission which will place the valuations on the properties to be expropriated."

It would obviously be impossible to complete the valuation along these lines before January 1st, when the Monopoly should officially start operations, and it would therefore appear that seizures on a very extended scale before valuation, and without compensation, are likely to take place in the immediate future. Such a method exposes the property of the Companies to great dangers, and yet at the moment, they are powerless to resist the seizures which are being carried out.

As an instance in point, motor trucks belonging to the Standard Oil subsidiary, Babel and Nervion, have been seized and are now being

used by the Monopoly. No appraisal of the value or investigation of the condition of the trucks was made, and it is obvious that in the hands of inexperienced drivers, serious damages to the material will result, of which the Monopoly may, under the circumstances, well refuse to take account.

Absolutely nothing is allowed to appear in the press in regard to the high-handed methods or the difficulties of the Monopoly, in consequence the town is filled with rumors of every sort in regard to future events. Many people still seem to hope against hope that some sort of an internal explosion will occur and that Primo may yet find an excuse to sweep aside the Monopoly. This however seems very improbable at the moment, due to the large, if unwieldy and ineffective, organization which has already been brought into being. The consensus of opinion among diplomatic officers is that the Government has now gone too far to retreat and that although General Primo de Rivera is really disgusted with the whole affair, he will nevertheless do everything possible to save the Government's face and pretend that the Monopoly is going on successfully.

At the moment no intimation has been received in regard to the attitude which the Spanish Government will take up concerning the protests regarding the seizures which have been made by the American, British and French Embassies. The British and French Ambassadors have, however, promised to communicate with me immediately when they receive a reply to their notes, and I shall keep the Department fully informed by telegram of any developments of outstanding importance.

I have [etc.]

PERCY BLAIR

[Enclosure 1—Translation]

*The Industrias Babel y Nervion to the Spanish Minister of Finance
(Sotelo)*

YOUR EXCELLENCY: In Article 10 of the R. D. of June 28th, 1927, it is established that the Compañia Arrendataria del Monopolio, will take over all the factories, depots, pumps and whatsoever other installations there may be, destined to the importation, manipulation, storage and distribution of petroleum products covered by the Monopoly; that it will expropriate and will pay the amount of the industrial value of such property, at the choice of the respective proprietors, either in shares of the Company, regulating the effective value by the same nominal, or in cash. The valuation will be made by a jury composed of three representatives of the State, one of the Company, and another of the expropriated party, against which accord there may be recourse to the Council of Ministers.

It is also stated in Article 10 that the valuation of the properties will be completely finished within a period of three months from date

of the definite adjudication of the tender to the Company. In spite of what is established in the aforesaid article of the R. D. in question, which cannot be taken as in opposition to that laid down in Article 10 of the Constitution, and Article 349 of the Civil Code, it is a fact that part of our installation in Alicante has been seized without previous valuation and payment, the legal protests to this effect having been duly formulated, and which we consider pertinent to the case on account of this expropriation having been carried out before the payment of the corresponding indemnization.

In view of the rapid procedure which has to be followed with regard to the valuation of property, we expected that a complementary disposition to article 10 of the aforesaid R. D. would have been dictated, giving instructions to the Valuation Jury with regard to the manner and scope with which the valuation of installations should be carried out, and as, up to the moment, no such disposition has been published to this effect, we beg to call Your Excellency's attention to the fact that, in our opinion, first, the *Compañía Arrendataria* is obliged, not only by the aforesaid R. D. creating the Monopoly, but also by that laid down by the above-mentioned article 10, to take over all the factories, depots, pumps and whatsoever kind of installations, which may be destined to the importation, manipulation, storage and distribution of petroleum products, and which, consequently, can be subject to no choice or elimination under any circumstances, as all assets must be acquired in totality and without exception whatsoever, by the *Compañía Arrendataria*.

We also consider that included in the valuation must be that which is known as goodwill, that is, trade marks, tenancy rights, other rights, such as clientele, credit, contracted expenses and publicity contracts, and any other kind of propaganda.

Likewise we consider that the *Compañía Arrendataria*, in favor of which other petroleum companies are to be expropriated, must take over all financial obligations of the firms to disappear, such as,—for the same reason,—obligations contracted with these companies' national and foreign staff of employees and agents, and the corresponding indemnizations for forced renunciation of their services.

We also wish to insist with regard to the necessity of the operations of valuation, liquidation and payment of the corresponding indemnizations be previous to the expropriation of property, as only in this way can the expropriation be carried out in accordance with the dispositions in force, and should it be done in any other way this would give the seizure of property a character of confiscation, which, up to the present time has not been sanctioned by the laws of Spain.

In making the above expressions of opinion, we are not inspired by any other wish than that of following the procedure as laid down by the R. D.-Law of June 28th, which is the respect as far as possible, of rights acquired.

Both in the aforesaid legal disposition and in the declarations of ministers published to this effect, it has been insisted upon that the Government, on implanting the Monopoly, wished to indemnify all damage caused thereby to existing firms, and to those dedicated to this business with the support of the Spanish laws. In the name of this same law, we request the explanations aforementioned, trusting that Your Excellency will take into account same, and that a Royal Order will be dictated in explanation, establishing also the regulations and instructions in the manner expressed above, to the valuation jury.

May the Lord keep you many years.

Madrid, 5th December, 1927.

[File copy not signed]

[Enclosure 2—Translation]

*The Compañía Arrendataria del Monopolio de Petroleos S. A. to the
Industrias Babel y Nervion*

The General Bureau of the Stamp Tax informs me as of this date as follows:

"Excellent Sir: Making use of the authorization which has been conceded to this Bureau by the Royal Order, accorded in Council of Ministers on November 22nd last, I have ordered, as of this date, the seizure of the installations which INDUSTRIAS BABEL Y NERVION owns in Valencia, on the basis of the corresponding indemnization, and in accordance with the procedure of expropriation as laid down in Article 10 of the Royal Decree-Law of June 28th last.—Which I pass on to you for your information and guidance.—

"May the Lord keep you many years.

Madrid, 7th December 1927. The Director General Andres Amado."

Which I in turn communicate to you for your information and guidance.

May the Lord keep you many years.

Madrid, 9th December 1927.

COMPañIA ARRENDATARIA DEL MONOPOLIO
DE PETROLEOS S. A.
ANASTASIO
Director General

352.1153 St 2/7 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, December 19, 1927—4 p. m.

[Received 5:20 p. m.]

142. Embassy's 133, December 6th, 12 noon. On December 15th the petroleum monopoly seized a part of Malaga plant owned 45 percent by Standard Oil, New Jersey, and 43 [33?] percent French capitalists before valuation and without any previous notification to the company as given them in case of Valencia and Alicante seizures. No compensation or promises thereof was given at the time of the seizure. I have just seen a strong and energetic note of protest which the French Ambassador has sent to Primo asking for an immediate reply to his note of December 10th.³⁸ French Ambassador again points out that methods of seizure contravene Spanish treaties, constitution and civil code. See Embassy's 139 December 13, 1 P. M.³⁹ American, British and French protests therein referred to so far unanswered.

[Paraphrase.] I believe that now would be an opportune time to present strong verbal protests to Primo de Rivera against the high-handed action of the oil monopoly in seizing foreign-owned property. Representations of this kind would be much strengthened should I receive authority to inform him that the Department is seriously concerned by the most recent seizure described above and urgently to request that immediate and full compensation be granted to the American interests whose property is affected. [End paraphrase.]

BLAIR

352.1153 St 2/7 : Telegram

The Acting Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, December 20, 1927—5 p. m.

104. Your telegram 142 of December 19, 4 p. m. The action of the Spanish Government in seizing properties of American oil companies in Spain without previous payment of proper indemnity as provided by article 349 of the Spanish Civil Code has created a very unfavorable impression in this country. In addition, the seizure of the Malaga properties without even previous notification to the company is causing this Government serious concern. What appears

³⁸ Not printed.³⁹ Not printed. For substance, see final paragraph of despatch No. 679, Dec. 14, 1927, p. 708.

to be a suspension of the Spanish Civil Code and the arbitrary acts committed by the Spanish Government in the course of its operation of the monopoly cause a belief in this country that in Spain the law does not now protect property or property rights. It is unnecessary to point out that it would be unfortunate if this belief receives further corroboration.

The foregoing may be brought to the attention of the Spanish Government and you may refer once more to the views of this Government in the matter of compensation as indicated in the Department's 100, of December 7, 5 p. m.

OLDS

352.1153 St 2/15

The Chargé in Spain (Blair) to the Secretary of State

No. 704

MADRID, December 20, 1927.

[Received January 7, 1928.]

SIR: I have the honor to refer to the Embassy's despatches No. 679 and No. 685, both dated December 14th last, in regard to recent developments in connection with the establishment of the Petroleum Monopoly in Spain, and submit a further report on this subject.

On December 16th, I met the British and French Ambassadors at a dinner at the Italian Embassy, and they both informed me that they had had no reply to their Notes of protest sent at the end of last week. The French Ambassador said, however, that he had met General Primo de Rivera at a reception the day before, that he had called his attention to the French Note of protest of December 10th (transmitted with the Embassy's despatch No. 685 of December 14th),⁴⁰ and that he had urgently requested a reply. The French Ambassador said that Primo informed him that he had not seen the Note of protest, but that he would look into the matter at once.

As no reply had been received to the Note which this Embassy had addressed to Primo de Rivera on December 12th, in accordance with the Department's instructions, before beginning this despatch I asked the French and British Embassies if they had received a reply to their Notes above referred to, and was informed that no reply had been received. The French Ambassador told me, however, that he had just addressed another strong Note of protest to General Primo de Rivera referring to his Note of December 10th, and requesting an immediate reply. The last Note of the French Embassy is referred to in the Embassy's telegram No. 142 of December 19, 4 p. m. This Note was read to me by the French Ambassador, and I shall endeavor to forward a copy of it to the Department by the next pouch.

⁴⁰ French note not printed.

In regard to the confidential part of the Embassy's telegram No. 142 of December 19, 4 p. m., in which reference is made to the desirability of further representations to the Spanish Government, in view of the recent high-handed seizure of the Standard Oil Company's Malaga plant, I have reason to believe that Primo is being consistently misinformed in regard to developments by his subordinates, who have wished to keep him in ignorance of the serious consequences which are likely to follow the Monopoly's high-handed methods of seizure, and I believe that if the situation were more fully explained to him, a change of policy in regard to expropriation might well result. The conversation which was reported to me . . . yesterday confirms this view, and the substance of it is as follows:

Señor Anastasio, the Managing Director of the Monopoly, a well to do Catalan banker, said that the payment of the foreign interests involved would be a heavy charge on the Government, that the Monopoly would have to ask aid of the Government to meet these charges, and that the bankers in the Syndicate could hardly be expected to be responsible for expropriations which were made necessary by the Government's Monopoly policy.

It seems strange that this most important phase of the matter was not more fully considered at an earlier date, and that the capital of the monopoly was not made sufficiently large to meet all charges, in order to avoid friction. This procedure would seem to show very well that insufficient study was given to the Government's plans, and that the Government has been badly advised from the start.

On page three of the Embassy's despatch No. 685 above referred to, reference is made to the Monopoly's order of seizure for the Babel and Nervion Company's Valencia plant. On December 14th, the seizure of part of the Valencia plant took place. The seized property consisted of three tanks, a certain amount of miscellaneous material used in connection with the discharge of tank steamers, and about 600,000 liters of gasoline. The Company's representative at Valencia made the same formal protest before a Notary as in the case of the Alicante seizures (see page 3 of the Embassy's despatch No. 665 of December 7th).

No valuation or inventory was made of the seized property at Valencia, and the Company naturally anticipates that the property seized will deteriorate considerably before any appraisal is made. From the Company's point of view, seizure of parts of its plant at various localities is particularly serious, because not only are normal operations greatly hindered, but the natural presumption seems to be that the Monopoly only wishes to take a certain part of the plant for its own use in the future, and leave the rest practically useless on the Company's hands. For the Department's information,

I am transmitting herewith the Spanish and English texts of the protest of the Babel and Nervion Company at the time of the partial seizure of the Valencia plant above referred to.⁴¹

In the Embassy's telegram No. 142 of December 19th, 4 p. m., reference is made to the latest seizure of property by the Monopoly at Malaga. In this case, the property seized belongs to the Sociedad Española de Compras y Fletamentos, which, I am reliably informed, is owned 45.25% by the Standard Oil of New Jersey, 33.32% by several French capitalists, and 21.43% by Spanish interests. The seizure which took place on the 15th was made without any notification to the head office of the Company in question (the Managing Director of this Company is the Standard Oil representative in Spain, W. L. Brewster), and in consequence, the formal protests before a Notary, which were made in the cases of the Alicante and Valencia seizures of Babel and Nervion's property, could not be made. This last seizure has very naturally produced a protest from the Company, and I am enclosing herewith the Spanish and English texts of a protest which Mr. Brewster, the Managing Director, has addressed to the Minister of Finance. I am also enclosing the French text of a letter which this Company wrote to the French Ambassador at the time of the Malaga seizure.⁴¹ This last seizure, made in an even more arbitrary form than the others, has greatly disturbed the French Ambassador, owing to the considerable amount of French capital involved, and had a great deal to do with his last energetic Note of protest sent on December 19th, above referred to.

In the Embassy's telegram No. 143 of December 19, 5 p. m.,⁴¹ reference is made to the seizure by the French authorities at Algiers of two ships carrying Soviet gasoline for the Monopoly. The Porto Pi Company, which was the first organization to be seized by the Monopoly, has long been engaged in bringing Soviet petroleum products to Spain, and there has always been considerable friction between the Shell, Standard and Porto Pi interests. Apparently the Spanish Government believed that it could profit by the Porto Pi Russian-Soviet contract in order to assure a part of the supplies needed by the Monopoly, and for this reason, the Porto Pi organization was seized in its entirety.

As set forth briefly in the Embassy's telegram No. 143 above referred to, a strange situation has now developed, owing to the fact that the Porto Pi Company does not really hold the contract. The Spanish Government, which never seems to be well informed in regard to the technical details of organization, apparently ignored the real state of affairs, and received a rude shock when it found out

⁴¹ Not printed.

that the actual contract was not held in Spain at all, and had only been used under a sort of working agreement. The Embassy has been informed that the French banking firm of Bauer and Marchal advanced a considerable amount of money to the Soviet in the past, in order to secure this contract, and that very naturally this firm wishes to profit by the situation which has arisen and is only willing to cede the contract at a very high price, which so far the Spanish Government has been unwilling to pay.

The question of the supplies which the Monopoly will be able to obtain in the near future is now one of very considerable interest, as many well informed people believe that notwithstanding the boastful statements to the effect that supplies were assured, this is very far from being the case. The Managing Director of the Standard Oil Company believes that not more than a full month's supply of petroleum products is now in Spain, and this contrasts strongly with the former situation, when the large Companies always maintained a full supply for three or four months. The fact that the Monopoly is negotiating with almost any interest able to supply petroleum would seem to show that it is fearful of a possible shortage. Very naturally, foreign interests involved hope that should the Monopoly fail to secure supplies, General Primo de Rivera may step in and sweep the Monopoly aside. Here, of course, the wish is father to the hope, and it is evident that the Spanish Government is now so deeply committed to the Monopoly scheme that everything possible will be done to make the public believe that it is proceeding successfully.

I have [etc.]

PERCY BLAIR

[Enclosure—Translation]

The Managing Director of the Sociedad Española de Compras y Fletamentos (Brewster) to the Spanish Minister of Finance (Sotelo)

MADRID, 16 December, 1927.

YOUR EXCELLENCY: With all the energy compatible with the respect due to orders emanating from the Government of His Majesty, we come before you to protest against the unusual fact of the Cia. Arrendataria del Monopolio de Petroleos having proceeded to the seizure of the greater part of the installation which this Company owns in Malaga, known as "La Concepción" for the receiving and storage of mineral oils, without this seizure having even been preceded by the communication to this Company of the decision of the General Bureau of the Stamp Tax on the basis of which said seizure has been effected.

With this last fact the gravity of the infractions committed by said seizure is increased, in view of its being an open violation of the

rights of property, upheld by article 10 of the present Constitution of the Spanish Monarchy, article 349 of the present Civil Code, article 10 of the Royal Decree of the 28th June 1927, and article 3 of the present Law of Forced Expropriation, as we are thereby deprived of our property, not only without previous indemnization for its value, but also without same having even been fixed nor discussion entered into with regard to same.

In view of this state of affairs we make every reserve to Your Excellency respecting the rights which will uphold us when the time comes to claim such indemnizations as violated rights may justify. We feel sure that the upright example of your Excellency will not allow the right which we have to be hidden when we make the reserves abovementioned, as we are sure that when the time comes we shall find proper assistance forthcoming from the Government for the due compensation of the damages caused us, and which we cannot pass over in silence as this would be taken as a renunciation or acceptance which we cannot in any way admit.

This, and no other, is the object of this letter, which we have to conclude stating that we have confidence that we shall find in Your Excellency the necessary assistance against what we consider opposed to the spirit at the back of the creation and implantation of the Petroleum Monopoly, founded on the basis of a recognition and respect for the rights established, and which are disregarded in the occurrence which we regret.

Yours very truly,

W. L. BREWSTER

852.6363/97

The Chargé in Spain (Blair) to the Secretary of State

No. 710

MADRID, December 22, 1927.

[Received January 12, 1928.]

SIR: I have the honor to inform the Department that a gift of one million pesetas has been made by the Concessionary Company of the Petroleum Monopoly as "Commission for the adjudication of the monopoly in its favor".

In the *Gaceta de Madrid* of December 16th last there appeared a Royal Decree, copy of which is transmitted herewith, for the Department's information,⁴⁴ directing that the above sum be distributed among the employees of the enterprises engaged in the sale of petroleum affected by the monopoly who are discharged on account of the disappearance of such enterprises because of their incorporation in the above-mentioned monopoly.

⁴⁴ Not printed.

It is further directed that a board composed of a delegate of the Treasury as President, an official of the civil Government and the provincial representative of the Petroleum Monopoly will prepare in each Province and send to the administrative headquarters, between the date of publication of the Decree and the end of the year, a report in which will figure the name of each employee who has been discharged or will be discharged up to the 1st of January, 1928, together with the firm in which he worked, his length of service, age, salary and family burdens.

Finally, a central committee, composed of the state representative of the Petroleum Monopoly Board as President and two advisors of the Monopoly, and two officials of the Monopoly Company, will consider the data submitted and determine for his Majesty's Government the distribution of the million peseta gift.

I have [etc.]

PERCY BLAIR

352.1153 St 2/18

The Chargé in Spain (Blair) to the Secretary of State

No. 713

MADRID, December 26, 1927.

[Received January 12, 1928.]

SIR: In compliance with the Department's confidential telegraphic instruction No. 104 of December 20th, 5 p. m., I have the honor to report that I had an interview with Primo de Rivera this morning and presented a note, a copy of which is transmitted herewith, embodying the Department's instructions abovementioned. A brief report of this interview will be made in the Embassy's telegram No. 144 of December 27th, 1927.⁴⁵ Mr. Grummon accompanied me, as I wished to be able to make an accurate report to the Department, the whole conversation being carried on in Spanish.

At the beginning of the interview, I took occasion to inform Primo de Rivera that my Government was gravely concerned by the action of the Spanish authorities acting on behalf of the Petroleum Monopoly in seizing without appraisal, indemnification, and in some cases, without any notice, property belonging to American interests in Spain. General Primo de Rivera said that he was not familiar with the technical details of these cases, that the situation was an exceptional one and that, under the circumstances, he thought it would be better to have me take up the questions in greater detail with the Minister of Finance, Señor Calvo Sotelo. He at once called the Minister by telephone and arranged to have Sotelo receive me as soon as my interview with him was finished. A report in regard to the interview with the Minister of Finance follows later in this despatch.

⁴⁵ Not printed.

The main points brought out in the course of a general discussion of the situation with Primo de Rivera were as follows:

1. That the Council of Ministers in considering the question of indemnification to foreign companies expropriated for the benefit of the Spanish Petroleum Monopoly, would "deal generously with them" in accordance with his orders. However, the Marqués de Estella pointed out that in the nature of things, the oil companies would never be satisfied with the treatment of the Spanish Government no matter how generous and would, in any event, consider themselves entitled to greater compensation than they would receive. I here pointed out that I did not believe that the companies wished to make any unfair claims, that they recognized the Monopoly as a fact and that they now only wished to liquidate their businesses and leave Spain, always provided that they received fair treatment. I pointed out, however, that it seemed obviously unfair suddenly to put an end to a business originally established in accordance with the existing Spanish legislation without recognizing its value as a going concern for which, moreover, the Monopoly Decree itself seemed to provide when it spoke of payment for the "industrial value" of the properties expropriated.

General Primo de Rivera said that he did not know exactly how this would be worked out, although mentioning that he considered that the State was supreme in such questions and he said that it had better be discussed with the Finance Minister.

As the interview ended, Primo stated that my *note verbal* would be answered promptly and wrote a notation to this effect on the note in my presence and also an instruction to the Secretary General to answer in his reply the specific points raised in our previous notes. During our conversation I ignored the note which I received this morning and of which a copy is transmitted herewith, as I wished to get Primo's ideas apart from his subordinates' and did not wish to discuss the note in question, which, as the Department will see, does not contain any satisfactory answer to the precise questions addressed to the Spanish Government in past communications.

Primo said that he thought our various notes had received answers, but I pointed out that the question of the extra-legal seizures and the basis on which seized property would finally be indemnified had not been satisfactorily arranged and that, for this reason, I wished to obtain assurances in regard to the policy of the Spanish Government. Primo reiterated that this policy would be to buy out the interest affected on a generous basis, but he did not commit himself in regard to details.

I received the general impression both from the interview above outlined and the subsequent interview with Señor Calvo Sotelo that both Ministers were really rather ashamed of the procedure of seiz-

ure, as several times during the conversation, reference was made to the extraordinary circumstances, the necessity of quick action and the fact that the Petroleum Monopoly had to be brought into immediate operation.

INTERVIEW WITH SEÑOR CALVO SOTELO

Señor Calvo Sotelo received me, accompanied by Mr. Grummon, a few minutes after my interview with General Primo de Rivera and I communicated to him the views of my Government regarding compensation of American interests affected by the Petroleum Monopoly. I also informed the Minister that my Government was concerned in regard to the illegal seizures and that these seizures were creating a most unfavorable impression in the United States because the implication was that neither the Civil Code nor the Monopoly Decree of July 28th last were being observed, to which he replied that the Decree of October 17th superseded the abovementioned Decree and that, in view of the extraordinary character of the Monopoly Decree, the provisions of the Civil Code conflicting with it had necessarily to be set aside.

Although he did not say so in so many words, the obvious implication is that the latest Royal Decree issued on any subject (which apparently is always exceptional) takes precedence over and sets aside any constitutional provision, the Civil Code, or previous Royal Decree, therefore leaving foreign interests in Spain absolutely at the mercy of the whim of an irresponsible Dictatorship.

In view of the above, I respectfully suggest to the Department that American interests which may contemplate starting new enterprises in Spain, be confidentially apprised of this extraordinary situation.

The subject of the arbitrary seizures, in some cases without any notice at all, then came up, and the Minister said that, in view of the large number of expropriations which had had to be made within the last few days, it has been found impossible to advise each company of the seizure. He, however, assured me that the expropriations would be completed shortly, that Boards of Appraisal were about to function and that the results of their labor could be expected within a few weeks. I here pointed out that, under the procedure to be followed by the expropriating authorities, these authorities, and indeed, the Council of Ministers were in the position of both judge and defendant, and that the nominal recourse to the Council of Ministers against alleged unfair treatment of the Boards of Appraisal was, in reality, no guarantee of fair treatment, inasmuch as the Boards of Appraisal were merely the creatures of the Ministers. I said that that was particularly true in view of the fact that all normal recourse to the courts and legal remedies were denied the injured companies by the Monopoly Decree itself.

The Minister admitted that such was the case, but said that the best guarantee the companies had was the fairness and good faith of the Spanish Government, which, he said, could not be doubted and he reiterated the intention of the Council of Ministers to deal generously with the oil companies.

Here again may I (parenthetically) draw the Department's attention to the fact that, under the existing regime in Spain, the Ministers defend the principle of denying appeal to the courts whenever such appeal interferes with the Government's policy. A precise instance in point is quoted in the Embassy's despatch No. 393 of June 13th, 1927,⁴⁶ when Primo, questioned by a member of the Government in regard to the possible appeal of Babel and Nervion to the Supreme Court said that, if the Supreme Court gave an unfavorable decision, he would simply annul it.

I then requested information from the Minister of Finance as to the methods and extent of indemnification contemplated by the Spanish Government's provision in the Monopoly Decree of June 28th last, providing for the recognition of industrial value. Señor Calvo Sotelo replied that the Monopoly would, through its Boards of Appraisal, give a fair valuation to all physical properties taken over by it which were utilized by the respective companies at the time of the application of the Monopoly, giving, however, in each case, only the actual value less depreciation for use. He did, however, give me an assurance that piecemeal taking of the property was not contemplated and that the whole property of each company used in the importation and distribution of petroleum products would be taken over by the Monopoly. This assurance is rather comforting under the circumstances, because, as previously reported, the companies had reason to fear that the Monopoly might only elect to take part of the property, thus leaving the rest valueless on their hands.

In reply to the Minister's assurances that the Spanish Government intends to take over all the physical property belonging to the various expropriated companies at what he called a fair value, I pointed out that, in addition to the intrinsic value of the installations, there is a real value universally recognized, attaching to the company itself as a going concern, business reputation, and so forth. He said in regard to this, that in view of the State character of the Monopoly, he personally was not disposed to give much consideration to good will (in Spanish, known as *valor comercial*) although he acknowledged that there was much to be said from the other point of view and he stated that his opinion was not to be considered as a definite refusal on this point. In this connection, having touched on the subject both with General Primo de Rivera and with the Minister

⁴⁶ Not printed.

and not having been confronted with a definite negative, I believe that when the final question of valuation comes up, it may well be possible to obtain some consideration of compensating the companies for the loss of their long established businesses in Spain.

Adverting for a moment to Primo's conversation, he mentioned in the course of the discussion, that foreign oil companies had long been exploiting Spain, to which I replied that the companies had come to Spain under existing legislature [*legislation*] and had rendered loyal and fair service to the Spanish public, which Primo somewhat grudgingly admitted was true in general. In his light-hearted way he said, however, that oil was a good business and that the Spanish Government now intended to get a part of the supposed large profits which the companies had enjoyed in the past. Here I believe it may be of interest to the Department to know that, according to the best information which the Embassy has been able to obtain, profits of the oil business have been far from excessive in the last few years and I believe that the Spanish Government will have a decided disillusion when it finds that profits are not likely to come up to expectations.

In regard to the Spanish Government's methods of expropriation and particularly the question of the commercial value of the companies expropriated, the Finance Minister stated that many interests had been injured by prohibition in the United States and had not been compensated. I replied immediately that I could see no connection whatsoever between a moral issue on the one hand and the present state of affairs which, in fact, put the State in the position of expropriating property used to make a legitimate profit in the hands of several private companies for the benefit of a new company which was only owned one third by the State and the other two thirds by private shareholders. I also stated that in the case of prohibition, the interests affected had ample previous warning before the law had been applied, that the present Monopoly had been put into effect almost over night, the companies being totally in ignorance of its coming and that they therefore had no means of getting out of the business or setting aside adequate reserves. His somewhat naive reply to this was that the Spanish Government could give no more advance notice of the establishment of the Monopoly as it had feared that the petroleum interests, warned in advance, would effectively thwart the Government plans.

Referring to the fact that the Monopoly shares are now selling at 25% premium, I observed that this was a concrete instance in point that the Government's policy was a profit making one and that for this reason it seemed only fair that the commercial value of the expropriated companies should be compensated for, as the new

Monopoly company would undoubtedly profit by this commercial value, and by the foreign companies' past efforts. Señor Sotelo said that possibly a year from now or even less this would not be the case, as the Government intended to limit the Monopoly's profits and he reiterated the fact that the Monopoly was a creature of the State and not of private interests and that the State would receive all the revenue with the exception of 5 or 6% dividends, increasing as provided for in the Monopoly Decree in partnership with the State. By implication, he seemed to admit the difference between American prohibition and the present day activities of the Spanish Petroleum Monopoly and made no further reference to this phase of the matter.

In connection with the procedure to be applied by the Spanish Government for the indemnification of the foreign interests injuriously affected by the institution of the Petroleum Monopoly, I pointed out to the Finance Minister that the oil companies were seriously disturbed by the fact that a totally inadequate amount of money was available under the terms of the Monopoly Decree for such compensation (as previously reported, the companies maintain that over two hundred million pesetas is the approximate value of their plants and businesses and as far as one is in a position to judge from the maze of Royal Decrees that are constantly guiding the Monopoly, only 72 million pesetas are available for compensation). The Minister replied that the value of the properties is still problematical, that decisions regarding valuation remained with the Appraisal Boards above referred to and the interview was ended with a reiteration on his part that the Spanish Government intends to deal generously (*con largueza*) with the interests affected, since it considers that to be good policy.

I well realize that the above very general statements in no way bind the Spanish Government and that, . . . little of concrete value was obtained from the two interviews. I believe, however, that the reference to public opinion abroad, notably in the United States, has served a useful purpose and I also believe that a frank discussion of the whole situation with the two Ministers, which fortunately was on a most friendly basis throughout, has done something to clear up a very complicated situation.

I believe that the net result of the several notes and of the above referred to conversations have been that the two Ministers in question realize the seriousness of the situation with which foreign governments view the arbitrary procedure and I am hopeful that some beneficial results in regard to practical compensation of the interests involved may be forthcoming.

I have, etc.

PERCY BLAIR

[Enclosure 1—Translation]

*The Secretary General of the Spanish Ministry of State (Almeida)
to the American Chargé (Blair)*

No. 299

MADRID, December 21, 1927.

DEAR SIR: Replying to your Embassy's courteous note No. 389 of December 1⁴⁷ relative to the seizure by the Petroleum Monopoly of a portion of the Alicante installations of the Babel and Nervion Company, I have the honor to inform you that the seizure referred to was effected in execution of provisions of the Royal Decree Law of October 17, last, and with the intention, in accordance with the terms of Article 2 of that Royal Measure, of making appropriate indemnification to be determined in due course in the manner provided for in the Royal Decree Law of June 28 of this year, creating the Monopoly, but in order to fix the amount of this indemnity as well as that for the unseized property, appropriate appraisal must be made thereof which is to be done by a Court designated for the purpose.

However, with a view to making equitable settlement legal interest for the interval will be paid the expropriated Company on the amount of indemnity as appraised, from the date of seizure until that on which payment is made.

I avail myself [etc.]

B. ALMEIDA

352.1153 St 2/18

[Enclosure 2]

The American Chargé (Blair) to the Spanish Ministry of State

No. 407

NOTE VERBALE

The American Chargé d'Affaires has the honor to refer to several previous notes and to verbal representations of the Ambassador on the subject of American interests in Spain which either have been or are likely to be injuriously affected by the establishment of a Petroleum Monopoly in accordance with the Royal Decree of June 28th last. His Excellency, the Marqués de Estella, was then informed that the American Government, while not wishing to discuss the policy of establishing a monopoly in Spain, must nevertheless look to His Majesty's Government to grant full and equitable compensation to all American interests concerned which might be injuriously affected thereby.

The American Chargé d'Affaires is now instructed to bring to His Excellency's attention the fact that a very unfavorable impression has been created in the United States by the seizures made by

⁴⁷ Ante, p. 703.

representatives of the Spanish Government, acting on behalf of the Petroleum Monopoly Company, of American owned properties used in the petroleum business in Spain, without previous appraisal and indemnification, as required both by Article 349 of the Spanish Civil Code and by Article 10 of the Royal Decree of June 28th last which established the Monopoly.

The unfavorable impression above referred to has been recently heightened by the sudden seizure of a part of the installations of the Malaga plant of the Sociedad Española de Compras y Fletamentos, a large percentage of which is owned by American interests, without even previous notice to the company affected, as given in the case of former seizures, at Valencia, Alicante, etc., thus giving the companies an opportunity to make a formal protest with a view to the assurance of their rights.

The situation outlined above is a matter of serious concern to the American Government, the more so as seizures of a like character are continually being reported.

In accordance with his instructions, the American Chargé d'Affaires must further point out to His Excellency, the Marqués de Estella, that the arbitrary actions which are being taken on behalf of the Petroleum Monopoly are creating a belief in the United States that property and property rights in Spain are no longer receiving the protection which has always been given them by Spanish law and that, although the American Government is exceedingly loath to believe that such is the case, it is hardly necessary to observe that the consequences of any further evidences supporting this belief would be exceedingly unfortunate from every point of view.

MADRID, December 23, 1927.

352.1153 St 2/19

The Chargé in Spain (Blair) to the Secretary of State

No. 715

MADRID, December 28, 1927.

[Received January-12, 1928.]

SIR: I have the honor to refer to the Embassy's strictly confidential despatch No. 704 of December 20th last, in regard to the procedure of seizures by the Petroleum Monopoly in Spain, and to submit a further report on this subject. In the Embassy's telegram No. 144 of December 27th, 11 a. m.,⁴⁸ and in the Embassy's strictly confidential despatch No. 713 of December 26th, a full report was made of the interviews with General Primo de Rivera, and Señor Calvo Sotelo, the Finance Minister, which took place on Monday, December 26th,

⁴⁸ Not printed.

and it hardly seems necessary to make further reference to these interviews at the present time.

Representatives of the Spanish Government, acting on behalf of the Petroleum Monopoly have continued making arbitrary seizures of both Spanish and foreign owned property, and as previously reported, the last seizures have been carried out without any notice to the Company affected in many cases. In the next few days, I understand that practically all the property used in the petroleum business in Spain is to be seized on behalf of the Monopoly, and apart from vague statements which appear in the press in regard to the work of valuation commissions, the present situation is that property is being seized without any valuation or compensation, or any hope of payment or compensation in the near future.

The whole policy now adopted savors of panic action, and it is obvious that both the Government and the Petroleum Monopoly are ill prepared to conduct the business which they are forcibly expropriating.

Supplies are being purchased in a rather haphazard and piece-meal way, wherever available, and according to the Embassy's information, the supplies are of an inferior quality, and in many cases would be unsaleable in the open market.

In regard to the seizures which have been carried out in the last week, I enclose herewith the Spanish text, together with an English translation thereof, of a communication to Babel and Nervion Company (the Standard Oil of New Jersey subsidiary) which provides for the arbitrary seizure of a number of the Company's plants. In this order, no mention is made of certain tank cars and other equipment of the Company, but in my interview with the Finance Minister above mentioned, I was informed that all the industrial property of the Company would be taken over before the first of January.

During the past week, I have been able to obtain legal opinions arranged for by two of the Companies involved in difficulties with the Spanish Government's Monopoly policy, in regard to legal rights of the Companies under previously existing legislation. These opinions were prepared by Señor de la Cierva, one of the greatest legal authorities in Spain, who is now a member of the Committee on Constitutional Law in the National Assembly. Curiously enough, Mr. de la Cierva, in spite of his well known opposition to the Government's policy in many directions, notably in regard to the Petroleum Monopoly, still remains on good terms with General Primo de Rivera, and the deduction of many people is that Primo does not wish to break with a person of such considerable influence. From the opinions above referred to, the Department will note that Señor de la Cierva condemns the procedure followed by the Petroleum Monopoly in no uncertain terms, and one of the most interesting

points in both opinions is the fact that this eminent legal authority considers that there are ample precedents in Spanish law which enable the Companies to claim compensation for good will (currently known in Spain as "valor comercial"). I am enclosing herewith four copies of the Spanish text, and seven copies of the English translation of the opinion given by Señor de la Cierva to the Sociedad Española de Compras y Fletamentos (also the Standard Oil of New Jersey subsidiary).⁴⁹ Owing to the shortage of personnel, the English translation of this long document was made with considerable difficulty, but I believe it will be of great interest to the Department, as it shows the precedents for claiming compensation for long established businesses, which are now being arbitrarily seized by the Petroleum Monopoly. . . . the Vacuum Oil, rather than lose the sale of its trade marked products in the Spanish market, has decided to work with the Petroleum Monopoly. This Company well realises that having given up any legal rights which it may have, at the time of the constitution of the Monopoly, its future position in Spain is somewhat uncertain, but it apparently is willing to take the risk, rather than sacrifice the value of its business as a going concern, which it fears may not be compensated for.

I have as yet been unable to obtain the exact terms of the special regulations which are to govern the sale of lubricating oils in Spain under the Monopoly. I believe, however, that the Vacuum Oil arrangement is to be along the following lines: (1) The Company will maintain its distributing business in Spain as at present constituted. (2) It will give its orders for its various products to the Petroleum Monopoly, which agrees to pass these orders on to the Vacuum Oil Company in the United States. (3) When the products arrive in Spain, they will pass through the Monopoly organization, but will be delivered to the Vacuum Oil Company for distribution, more or less along the lines heretofore followed, subject however to heavily increased taxes.

The substance of the agreement seems to be that the Vacuum is only going to be allowed to make a very small margin of profit, the Monopoly taking the cream of the business, which the Company now obtains. The Company, however, seems to feel that one quarter of a loaf is better than none, and is willing to make great sacrifices to maintain the market for its trade marked products.

Up to the present time, there has been no change in the policy of the Standard and Shell interests, which refuse to supply the Monopoly, and which take the position that all they now desire is reasonable

compensation for their property and long established business, and then retire from the Spanish market.

When considered in the light of the Embassy's despatch No. 713 of December 26th, giving the substance of the recent conversation with General Primo de Rivera and the Finance Minister, it is obvious that the legal opinions above referred to have hardly more than an academic value, as the policy of the Spanish dictatorship takes little or no account of previously existing Constitution, Civil Code, or even of previous Royal Decrees. In the course of the conversation with the Minister of Finance, reference was made to the Royal Decree of October 17th, which provides for the arbitrary seizure of property, and the Minister stated that this Decree superseded all others, notably, the Decree of June 28th, which preserved a semblance of legality, to cover the Monopoly's proceedings. Under the circumstances, all foreign interests now established in Spain are at the mercy of the latest Royal Decree, and as in practice ordinary courts of justice are powerless to intervene, there seems no way of obtaining fair treatment for any foreign interest involved in difficulties with the Spanish Government other than by direct diplomatic intervention.

A case in point has just arisen, which well proves the impotency of the Spanish judicial system, although both in theory and in fact it is still in operation. The Babel and Nervion Company has obtained a court decision to the effect that certain monies deposited as guarantee for customs duties should be returned to them. The Company has repeatedly addressed petitions asking that the sum involved, some 350,000 pesetas be returned in accordance with the court's decision, but the Ministry of Finance simply ignores the Company's request. The same Company likewise has an unpaid claim for some 500,000 pesetas, which has to do with the exaction of over-payment of customs duties by the Spanish Treasury. The Company's claim for this latter amount was placed before the Department in the Embassy's despatch No. 404 of June 21st, 1927,⁵⁰ and in subsequent despatches on this subject.

Under the circumstances above set forth, and in view of the fact that the Minister of Finance told me in the course of my interview above mentioned, that he would be glad to take up informally any difficulties which arose in regard to the claims of Companies for compensation, I intend to ask the Minister to give his consideration to the request of the Company for repayment of the sums involved, as above outlined.

I have, [etc.]

PERCY BLAIR

⁵⁰ Not printed.

[Enclosure—Translation]

The Compañía Arrendataria del Monopolio de Petroleos S. A. to the Industrias Babel y Nervion

The General Bureau of the Stamp Tax informs this Company under today's date, as follows:

"Excellent Sir:—Making use of the authorization conceded to this Bureau by the Royal Order of November 22nd last, I have decided to proceed with the seizure of the installations owned by the firm of Industrias Babel y Nervion, situated in:

| | |
|------------------------|--------------------|
| Madrid | Murcia |
| Barcelona | Cartagena (Murcia) |
| Vich (Barcelona) | Pamplona |
| Cáceres | Salamanca |
| Jerez de la Frontera | Soria |
| (Cadiz) | Valladolid |
| Alcazar de S. Juan (C. | Bilbao |
| Real) | Zaragoza |
| Córdoba | |
| Granada | |

"These seizures are agreed upon with due reservation for the indemnization corresponding to same in accord with the procedure of expropriation established in Article 10 of the Royal Decree-Law of June 28th last.— Which I pass to Your Excellency for your information and guidance.— Madrid, 21st December 1927.— The Director General, Andrés Amado.— To the President of the Board of Directors of the Compañía Arrendataria del Monopolio de Petroleos."

Which in our turn we pass to you in order that you may give the necessary instructions to the representatives in charge of the respective installations, and that the latter may facilitate the operations of seizure authorized by the above mentioned Bureau, which will be carried out by a Delegate of the Ministry of Finance and another of this Company, jointly.

May the Lord keep you many years.

Madrid 21st December 1927.

COMPAÑIA ARRENDATARIA DEL MONOPOLIO
DE PETROLEOS S. A.
E. ANASTASIO

352.1153 St 2/11 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, December 30, 1927—4 p. m.

[Received 5 p. m.]

146. Embassy's 144, December 27th, 11 a. m.⁵¹ Royal order published today makes petroleum monopoly effective January 1st, 1928.

⁵¹ Not printed. For substance, see despatch No. 713, Dec. 26, 1927, from the Chargé in Spain, p. 717.

Practically all plants and equipment American-owned companies now seized for monopoly by the Spanish Government. Seizures made without previous valuation or compensation. The above order states however that interest on whatever value may finally be awarded will be paid from the date of seizures. News item appeared today Spanish press dated Washington yesterday stating that compensation for expropriated property will be made on a generous scale. Doubtless due to the influence of the censor the wording of the article implies that the American Government is entirely satisfied with explanations given by Spanish Government of the present abnormal situation. Article further makes deliberate misstatement that immediate compensation is to be paid whereas this cannot be effected for weeks if then. Having been questioned by the British and French Embassies with regard to the article which purports to emanate from the Department, I would appreciate accurate information regarding any statement made to the press.

BLAIR

352.1153 St 2/11 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

WASHINGTON, December 31, 1927—3 p. m.

103. Following statement given to press today:

"Further advices from Spain indicate that seizures of American oil properties in Spain are continuing. The assurances given by the Spanish Government with respect to compensation for their expropriation and use, while giving rise to hope on the part of this Government that prompt and fair compensation will be made by the Spanish Government, cannot, however, be regarded as wholly satisfactory until they have been translated into appropriate action."

KELLOGG

CONTINUATION OF THE COMMERCIAL "MODUS VIVENDI" BETWEEN
THE UNITED STATES AND SPAIN²³

611.5231/501

*Royal Decree No. 958 of May 25, 1927, as Published in "Gaceta de Madrid," May 26, 1927*²³

[Translation]

In accord with my Council of Ministers and as submitted by its President I make the following decree:

ARTICLE 1. From the date of publication in the Madrid *Gazette* of this decree merchandise proceeding from the United States of North

²³ Continued from *Foreign Relations*, 1925, vol. II, pp. 707-713.

²³ Transmitted to the Department by the Ambassador in Spain as an enclosure to his despatch No. 376, May 31; received June 16.

America shall enjoy most-favored-nation treatment as resulting from the application of commercial treaties now having consolidated duties and for such time as the said consolidation lasts. In this sense the extension of the *modus vivendi* of August 1st, 1906,⁵⁴ arranged by exchange of notes dated October 6th and 22nd, 1923,⁵⁵ is to be interpreted.

ARTICLE 2. Application of the foregoing provision shall have a maximum duration of six months and carries with it the obligation to make within that period a commercial treaty of mutual reciprocity which will bring about complete stability in the commercial relations between the two countries.

ARTICLE 3. As a consequence of the provisions contained in the two foregoing articles the extension of the said *modus vivendi* of August 1st, 1906, shall be considered as having been denounced in order that, on the termination of its operation and within the period of six months hereinbefore mentioned, the new treaty that shall have been negotiated may go into effect.

Done at the Palace, May 25, 1927.

ALFONSO

President of the Council of Ministers,
MIGUEL PRIMO DE RIVERA Y ORBANEJA

611.5231/538 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

[Paraphrase]

MADRID, October 18, 1927—10 a. m.

[Received 1:40 p. m.]

103. As it appears that American business interests are becoming anxious because of the uncertainty of a prolongation of the present commercial *modus vivendi*, I would suggest that negotiations be instituted at once looking to an indefinite prolongation of the agreement with a clause providing for denunciation by either side on 3 months' notice. There might be used as a basis for negotiation my note presented August 18 [179]⁵⁶ wherein the Spanish Government was warned that should most-favored-nation treatment not be continued, the American Government would regard all commercial arrangements now existing as denounced by Spain. It might also be pointed out that inasmuch as a number of Spanish grievances are now being considered, a discontinuance of most-favored-nation treatment after November 26 might have a prejudicial effect on the attitude of the United States on those subjects.

⁵⁴ *Foreign Relations*, 1906, pt. 2, p. 1841.

⁵⁵ *Ibid.*, 1923, vol. IV, p. 873.

⁵⁶ Not printed.

Pending the outcome of such negotiations I would strongly recommend that no report on Kisiuk's investigations⁵⁷ be issued and I would like authority to so inform him. I would also recommend favorable action on the Spanish request that Kisiuk should also investigate the tomato situation in the Canary Islands. The remedying of at least one Spanish grievance would have, I feel, a very beneficial effect on the negotiations.

I understand that treaty negotiations between Spain and Italy are proceeding slowly and that so far the 3 months' denunciation clause has not been invoked, nor is it likely to be in the near future. Accordingly a continuance of most-favored-nation treatment would give the United States the advantages of the existing treaty between Spain and Italy for several months at least.

HAMMOND

611.5231/550

*The American Ambassador (Hammond) to the Spanish Minister of State for Foreign Affairs (Estella)*⁵⁸

No. 371

MADRID, October 26, 1927.

EXCELLENCY: In view of the expiration on November 27th next of the six months term set by his Majesty's Decree of June 27th [May 25th] last, granting unconditional most favored nation treatment to American products in Spain, and pending the conclusion of a definite commercial agreement between our two countries, I have the honor, under instructions from my Government, to propose to that of His Majesty an indefinite extension, subject, of course, to denunciation on due notice (say three months), of the regime at present obtaining under the Royal Decree above mentioned.

It is the intention of my Government to make a full and considered reply to Your Excellency's note of August 31st last,⁵⁹ dealing with each of the eight articles therein mentioned as affording ground for Spanish complaint. However, the preparation of this note must await the return to the United States of Dr. Kisiuk, the extension of whose mission at Your Excellency's request to include the Canary Islands, will make it impossible to reply to your note above mentioned before the expiration of the *modus vivendi* on November 27th next. It would, therefore, seem desirable from the point of view of both countries that the present regime be extended as above suggested, in harmony with the views which Your Excellency expressed to me during our interview on this subject at Santander on the 17th of

⁵⁷ See *post*, p. 737.

⁵⁸ Copy transmitted to the Department by the Ambassador in Spain as an enclosure to his despatch No. 588, Oct. 28, 1927; received Nov. 15.

⁵⁹ Not printed. For substance, see Spanish note, *infra*.

August last. This would seem the more desirable in order that the Spanish complaints may be considered without prejudice and in order that business between the two countries may no longer be hampered by the present uncertainty.

I avail myself [etc.]

OGDEN H. HAMMOND

611.5231/551

*The Spanish Minister of State for Foreign Affairs (Estella) to the American Ambassador (Hammond)*⁶⁰

[Translation]

No. 262

MADRID, November 7, 1927.

EXCELLENCY: DEAR SIR: In your note No. 371, of October 26, 1927, Your Excellency is good enough to propose, by virtue of instructions from your Government, an indefinite extension of the existing commercial regime between Spain and the United States, subject, of course, to a denouncement, which might be for three months, in view of the fact that on the 27th of November of the present year the six months term fixed by the Royal Decree of June 27th last, expires, which date Your Excellency mentions doubtless in error, since the true date is the 25th of May last, which granted to the products of your country most favored nation treatment.

Your Excellency bases this proposal upon the impossibility of your Government giving a complete and detailed reply before the 27th of November to my Note of August 31st last, in which I again requested that before the negotiation of a new commercial treaty, the various points at issue be solved or satisfactorily explained, which affect the importation and commerce of certain Spanish products in the United States and which I mentioned in another note directed to Your Excellency under date of June 24th last,⁶¹ such as the question of the Almeria grapes, oranges and lemons, tomatoes, chestnuts and hazelnuts, preserved peppers, and short firearms; which impossibility is due to the fact that Dr. Kisliuk has not yet completed the mission entrusted to him by your Government, to investigate the sanitary condition of the grape production in the Province of Almeria and which, at my request, was extended to include a similar investigation of the Canary Island tomatoes.

Replying to the above-mentioned note, I have the honor to inform Your Excellency, on behalf of His Majesty's Government, that the latter, taking into consideration the reasons mentioned by Your Excellency, agrees to continue provisionally the application to the products of the United States from the 27th of November of the

* Copy transmitted to the Department by the Ambassador in Spain as an enclosure to his despatch No. 609, Nov. 8, 1927; received Nov. 21.

* Not printed.

present year, most favored nation treatment, as was granted thereto by the Royal Decree of May 25th last, which regime will cease upon three months denunciation or upon the conclusion of a new commercial treaty between Spain and the United States.

I avail myself [etc.]

MARQUÉS DE ESTELLA

611.5231/554

*Statement by the Spanish Government Published in "Gaceta de Madrid," November 12, 1927*⁶²

[Translation]

The Government of His Majesty, accepting the proposal made to it by that of the United States has agreed to continue applying temporarily to the products of the latter country, from the 27th of the present month of November, most favored nation treatment as granted them by the Royal Decree of May 25th last, which regime will cease three months from its denouncement or upon the conclusion of a new commercial agreement between both countries.

Which I make public for general knowledge.

Madrid, November 7, 1927.

Secretary General,

B. ALMEIDA

NEGOTIATIONS CONCERNING THE AMERICAN EMBARGO AGAINST SPANISH FRUITS AND VEGETABLES AFFECTED BY THE MEDITERRANEAN FRUIT FLY⁶³

811.612 ^{Grapes}/_{Spain}/127

The Secretary of State to the Spanish Chargé (Amoedo)

WASHINGTON, August 10, 1927.

SIR: I beg to refer to the Embassy's note of May 11, 1927, advancing certain proposals for the consideration of this Government in connection with the question of the admittance of Almerian grapes into this country.⁶⁴

The Department duly communicated the contents of the Embassy's note to the Agricultural authorities of this Government and also informed them of the desire of the Spanish Government as expressed to the Department by the Embassy's note and by subsequent statements made by the Spanish Ambassador to the Department, that an expert be sent by this Government to Spain to examine the fruit

⁶² Transmitted to the Department by the Ambassador in Spain as an enclosure to his despatch No. 628, Nov. 19, 1927; received Dec. 5.

⁶³ For previous correspondence, see *Foreign Relations*, 1925, vol. II, pp. 714 ff.

⁶⁴ Not printed.

fly situation in company with Spanish experts at the time that the grapes are being harvested.

The Agricultural authorities of this Government have indicated to the Department their intention of sending Mr. Max Kisliuk of the Department of Agriculture, to Spain for the purpose of making the investigation in question and have stated that he would sail from this country for Spain on or about September 1.

It is felt by this Government that consideration of the other suggestions made in the Embassy's note of May 11 should be deferred until Mr. Kisliuk's report has been received and has been studied by the Agricultural authorities of this country, and, accordingly, I am unable for the time being, to express any opinion with respect to the proposals advanced therein.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

811.612/1454

The Secretary of State to Diplomatic and Consular Officers

Diplomatic Serial No. 660 WASHINGTON, September 19, 1927.

SIRS: The Department quotes, for your information and such dissemination as you may deem advisable, the following statement received from the Secretary of Agriculture under date of August 20, 1927:

"It has frequently come to my attention that the opinion is held in many foreign countries that the Department of Agriculture of this Government uses for tariff and trade purposes its laws and regulations governing the importation of foreign products.

"I have repeatedly pointed out that no trade considerations enter into any of the restrictions promulgated by this Department. In my letter of May 5, 1927, to the Secretary of State, with reference to the quarantine against South African fruit,⁶⁵ I stated, 'It should not be necessary to say that no trade consideration enters into any of the plant quarantine restrictions promulgated by this Department under the authority of the Federal Plant Quarantine Act of 1912.⁶⁶ No article which it is believed can safely enter the United States is restricted by any such quarantine[s], and vast quantities of fruits and vegetables are constantly coming into the United States where the competition from such imports with our own products is keen and even greatly limiting home production.'

"On June 17, 1927, I wrote the Secretary of State⁶⁷ with reference to a proposed resurvey of the fruit fly situation in Spain as a basis for entry into the United States of Almerian Grapes, and in that let-

⁶⁵ Not printed.

⁶⁶ 37 Stat. 615.

⁶⁷ Letter not printed.

ter I said: 'It would seem unnecessary to reiterate that in concerns of this nature, where the entry of a foreign product menaces the security and future of important agricultural products of this country, such products should not be placed in jeopardy, or be made the subject of barter, with respect to the benefits to be received—commercial or other. On the other hand, it may be pointed out that this Department is confining its quarantine restrictions on imports strictly to the exclusion of pests—restrictions which it applies between our own States and to our territorial possessions with the same severity as they are applied to foreign countries.

"It might be noted also that in the case of Spain, entry is now permitted of certain fruits, namely, bananas, pineapples, lemons, and sour limes, and any vegetable which is not known to be attacked in Spain by injurious insects new to the United States.'

"The European corn borer, the brown-tail and the gypsy moth, the Japanese beetle, the brown-tail fruit worm, the pink bollworm, the cotton boll weevil, the alfalfa weevil, the chestnut blight, the citrus canker, and the white pine blister rust are some of the more serious pests and diseases which have been introduced into this country from abroad. These, with those outbreaks of foot and mouth disease, which has occasionally found entry into this country in various ways, have entailed enormous losses to American agriculture. In addition to these losses enormous sums have been spent in our attempt at eradication and control of the diseases and pests after they were once established. Congress at its last session appropriated the sum of ten million dollars intended to prevent so far as possible the spread of the European corn borer alone.

"Some time ago it was felt that the Department's position on this question was fairly universally understood. On April 27, 1925, this Department wrote the Secretary of State²⁸ regarding the Mediterranean fruit fly situation and concluded: 'It is very pleasing to note that Senores Sanchez, Entrana, and Callejon are now satisfied that the action taken by this Department with respect to grapes from Almeria was purely a quarantine measure for the purpose of protecting the fruit of this country from invasion by the Mediterranean fruit fly.'

"The Department of Agriculture has made every effort to make its position perfectly clear not only [*sic*], but has also manifested the utmost leniency in the determination of means whereby entry into this country and sale on American markets could be effected of the produce of those countries in which these pests prevail. Wherever it was possible by effective processing or treatment of a character calculated to remove the pests or the cause of the disease, no objection has been interposed to traffic in those articles of commerce which might ordinarily serve as carriers. The Department has had repeated occasion to point out the fact, which is well known to every commercial agency engaged in the traffic of agricultural products in this country, that the same quarantines and restrictions applying to foreign products as a means of preventing the introduction of pests and diseases are enforced with equal rigidity in this country as a means of preventing their spread once they have been introduced.

²⁸ Letter not printed.

"I have requested the Department of State to make known to all its representatives, both at home and abroad, the actual purpose of the Department of Agriculture in the enforcement of the various regulatory laws which affect the import into the United States of products of foreign origin. It may also seem advisable for this information to be made available to press representatives who send material to foreign countries in order that they may have an official statement which will tend to off-set incorrect impressions which have been allowed to grow in those countries, and promote a proper understanding between this Government and the representatives of countries with which this Department may have occasion to deal in the enforcement of the various laws having import provisions intended to effect the exclusion of diseases and pests inimicable to American agriculture."

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

611.5231/539 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, October 20, 1927—noon.

[Received October 20—11:03 a. m.]

104. My telegram number 103, October 18, 10 a. m.⁶⁹ Foreign Office requests that Kisiuk be authorized to investigate the tomato situation in the Canary Islands, and urge the advisability thereof with a view to securing fair solution of Spanish grievances and normalizing of commercial relations by the new treaty.⁷⁰

I strongly recommend compliance with the request.

HAMMOND

611.5231/539 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, October 20, 1927—6 p. m.

76. Your 103, October 18, 10 a. m. and 104, October 20, noon. Department of Agriculture has cabled instructions to Kisiuk care your Embassy authorizing Canary Islands investigation. Kisiuk has also been instructed to defer publication of report of his investigation until after his return to the United States.

KELLOGG

⁶⁹ Ante, p. 739.

⁷⁰ For negotiations for the renewal of the commercial agreement with Spain, see pp. 729 ff.

811.612 Grapes /145
Spain

The Secretary of State to the Spanish Ambassador (Padilla)

WASHINGTON, December 10, 1927.

EXCELLENCY: I have the honor to refer to your note of May 11, 1927,¹ and to other correspondence concerning American quarantine measures as applied to Spanish agricultural and fruit products, with particular regard to the quarantines upon the importation of Spanish grapes, oranges and tomatoes into this country.

As I informed you under date of August 10, an expert of the Federal Horticultural Board, Dr. Max Kisliuk, was sent, in accordance with the request of your Government, to examine the situation in Spain as regards the infestation of the fruit growing areas in Spain by the Mediterranean fruit fly.

Dr. Kisliuk has now returned and after consideration of his report, the Department of Agriculture has written to this Department under date of December 3 making a comprehensive statement of its position regarding quarantine measures as applied to Spanish agricultural and fruit products. The text of that letter reads as follows:

"You are advised that, in accordance with the request of the Spanish Embassy, Mr. Max Kisliuk, Jr., an inspector of the Federal Horticultural Board of this Department, was authorized to make a resurvey of the fruit fly situation as affecting the Malaga or green export grape produced in the Province of Almeria. This survey, now completed, was made in cooperation with the Spanish officials and inspectors throughout.

"The result of the survey fully determines that the Mediterranean fruit fly still exists throughout the grape districts of Almeria, including the special districts where more or less intensive cleanup operations were undertaken. It is evident, therefore, that the action of this Department in excluding such grapes from the American market is justified, and can not be modified without the assumption of serious risk of introducing this fruit fly into the United States.

"The Department believes that the cooperation, referred to, of Spanish officials in the survey has made it clear to such officials that the restriction enforced by this Department re grapes has a definite basis in pest risk.

"Incidental to this investigation of the grape situation, and at the request of the Spanish authorities, Mr. Kisliuk was authorized to make an investigation of the tomato industry of the Canary Islands, with the object of determining whether there was any risk from fruit fly or other pests from the importation of such tomatoes into the United States. In explanation, it may be stated that there is no restriction on the entry of tomatoes from Spain or any of its possessions, other than the requirement of the presentation of evidence satisfactory to this Department that such tomatoes are not attacked in the country of

¹ Not printed.

origin by injurious insects, including fruit and melon flies, and it should be noted that this requirement applies to imports of vegetables from all countries. The investigation of the tomato cultures in the Canary Islands was carried out very intensively, in cooperation with Spanish authorities, and resulted in failure to find any evidence of infestation of tomatoes by the Mediterranean fruit fly, although this fly was very abundant in the Islands, heavily infesting the orange and other fruits. The results of this survey can, therefore, be accepted as meeting the condition referred to above, namely, evidence satisfactory to the Department that the Mediterranean fruit fly does not attack the tomato in the Canary Islands. The examinations made incidental to the investigations of the grape in continental Spain also indicated a like freedom from fruit fly infestation of tomatoes.

"Somewhat in summary, therefore, and with respect to the more important of the possible fruit and nut exports from Spain to the United States, you are advised as follows:

(1) The situation with respect to grapes and oranges in Spain remains such as to make it, in the judgment of this Department, unwise to permit the entry of such fruits into the United States.

(2) The entry of tomatoes from the Canary Islands or from Spain will be authorized, under permit, on application of importers, with such provision for inspection at point of entry as is given to all fruits and vegetables entering the United States. It should be made clear, however, that such authorization must be conditioned on the continued freedom of such tomatoes from injurious insects, including fruit and melon flies.

(3) With respect to chestnuts and other nuts, there are no embargoes or restrictions on the entry of such products, other than the requirement that if infested they shall be so treated in the country of origin as to kill any infesting insects. Furthermore, for this year, in accordance with arrangements which have been made with Italy, any chestnuts arriving from Spain, even though infested, will be permitted entry under the condition of treatment in such manner as will destroy the infesting insects. You are advised that such treatment at port of entry has already been given to a very large number of shipments of Italian chestnuts and has been effective in destroying certain infesting insects. It should be noted that the cost of such treatment must be met by the importer and that the latter must also assume responsibility for any damage to the imported article.

"With respect to the entry of other plant products from Spain, it may be noted that Quarantine 56,⁷² under which the entry from all foreign countries of fruits and vegetables and other plant products is restricted, releases from any restrictions—even of permit—dried, cured, or processed fruits and vegetables, including dried products, cured figs, dates, and raisins, etc., nuts and dry beans, peas, etc., except only when the determination has been made by this Department, and due notice of such determination has been given, that the condition

⁷² Fruit and Vegetable Quarantine No. 56 of the Federal Horticultural Board.

of drying, curing, and processing to which the articles have been subjected may not entirely have eliminated risk, in which case the articles covered are still permitted entry but only under permit and inspection. Furthermore, the quarantine provides for the free commercial entry under permit, from all countries, including Spain, of bananas, pineapples, lemons, and sour limes."

I might state for your information that the Department proposes to give the text of this letter to the Press for publication in the Monday morning newspapers.

Accept [etc.]

FRANK B. KELLOGG

SWEDEN

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND SWEDEN

711.582/16a

The Secretary of State to the Swedish Minister (Wallenberg)

WASHINGTON, July 24, 1925.

SIR: In pursuance of conversations which officers of the Department recently had with you, I have the honor to inform you that this Government is cordially disposed toward entering into negotiations with the Government of Sweden for the conclusion of a treaty of friendship, commerce and consular rights. As appropriate to beginning negotiations I take pleasure in submitting to you the draft of a proposed treaty.¹

You will observe from the preamble that the document embodies a treaty of friendship as well as of commerce and consular rights. It is designed to promote friendly intercourse between the peoples of the United States and of Sweden. The several articles are expressed in terms which definitely set forth the principles involved. By this means it is sought to avoid as far as possible danger of conflicting interpretations. It is believed that the provisions as drawn lay the foundation for a comprehensive arrangement responsive to the modern requirements of maritime states.

Article VII makes full provision for the enjoyment of the most favored nation treatment in its unconditional form, as applied to persons, vessels and cargoes, and to articles the growth, produce or manufacture of the United States and of Sweden. It will be seen that the most favored nation clause is applied to duties on imports and exports and to other charges, restrictions and prohibitions on

¹ Not printed. The draft, containing 30 articles, is essentially the same and for the most part identical as to articles I to XXIX with the same articles of the treaty with Germany, Dec. 8, 1923 (*Foreign Relations*, 1923, vol. II, p. 29), with the insertion of the following paragraph between the 5th and 6th paragraphs of article VII: "In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country."

Article XXX of the treaty with Germany is omitted in the draft; and articles XXXI and XXXII, altered in certain respects, become article XXX of the draft.

goods imported and exported. In Article XXX it is provided that the Treaty shall from the date of the exchange of ratifications supplant, terminate and annul the Consular Convention concluded by the United States and Sweden on June 1, 1910.²

You will of course understand that the Department reserves the right to make minor changes in the draft in the course of the negotiations.

In transmitting this draft to you I am glad to confirm the understanding that the negotiations will be carried on in Washington. The American Legation in Stockholm will, however, be kept fully informed of the progress of the negotiations and will be prepared to engage in conversations directly with the Swedish Foreign Office.

Accept [etc.]

FRANK B. KELLOGG

711.582/22

The Swedish Legation to the Department of State

MEMORANDUM REGARDING CERTAIN STIPULATIONS IN THE DRAFT OF A
TREATY OF FRIENDSHIP AND COMMERCE BETWEEN SWEDEN AND THE
UNITED STATES

ARTICLE I

Par. 1.

a) What is the meaning of the term "local laws and regulations"?

b) It is understood that the word "hereafter" has reference to all privileges granted the most-favored-nation, whether before or after the signing of the treaty.

c) It is understood that the concluding sentence of Paragraph 1 ("submitting themselves to all local laws and regulations duly established") refers to the entire contents of Article I, Par. 1.

d) It is further understood that, whereas the treaty only confers the right to own buildings within the territory of either High Contracting Party to the nationals of the other, it does not exclude such nationals from the right to own land, so far as the local laws permit that land may be owned by foreigners.

Par. 2.

An explanation is desirable with regard to the term "internal charges or taxes."

Par. 5.³

The view is expressed that the word "immigration" does not include tourist traffic, that is traffic which according to general practice can

² *Foreign Relations*, 1911, p. 723.

³ The fifth paragraph reads: "Nothing contained in this Article shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes." This paragraph embodied a reservation by the Senate to the treaty with Germany, Dec. 8, 1923; see bracketed note, *Foreign Relations*, 1923, vol. II, p. 45.

not be regarded as immigration and which takes place outside the quota. As a consequence, the stipulation in Par. 1 according most-favored-nation-treatment has to be applied. It is understood, however, that there will be no objection on the part of the United States to an explanation in a supplemental memorandum to the effect that the High Contracting Parties reserve the right to issue special regulations for the visa of passports.

ARTICLE II

It is understood that the United States is willing to consider the conclusion of a separate agreement with Sweden governing mutual workmen's compensation.

ARTICLE IV

According to Swedish law no restrictions exist similar to those which are assumed in this paragraph. A foreigner who comes into possession of real or other immovable property, either as an inheritance or by testamentary disposition, has in Sweden the sole right to own and dispose of it. It would seem that from a logical point of view it would be preferable to have the construction of this paragraph in the following way:

First, it should be expressly stated that the nationals of the two High Contracting parties have the right, generally speaking, to dispose of both immovable and personal property by testament, donation, or otherwise,

Second, it should be stated that the nationals of the High Contracting Parties have the right to succeed to both immovable and personal property, provided, however,

a) with regard to immovable property, a certain period of time within which to sell the same shall be stipulated (with a most-favored-nation-clause);

b) with regard to the personal property, that the nationals of the High Contracting Parties shall have national treatment.

ARTICLE V

a) According to Swedish law congregations of the Christian faith only have the right to exercise public worship. The view is expressed, however, that a reservation to this effect is not necessary on the part of Sweden, as said reservation is covered by the stipulation in Article I, Par. 1 ("submitting themselves to all local laws and regulations duly established").

b) What is the meaning of the term "at liberty" as used in this article?

ARTICLE VII

Par. 1 and 2.

a) It is understood that the wording of Par. 1 and 2 aim to cover the most-favored-nation-principle in its unconditional form, whereby all discrimination against the other party is eliminated. The reservation made—"nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal, or plant life, or regulations for the enforcement of police or revenue laws"—refers to exceptions which would be deemed justified for special reasons, as for instance the prohibition on the importation of liquor, drugs etc.

In view of the great importance of the stipulations in this article it is imperative to have a wording which eliminates any doubt concerning the true meaning of the unconditional most-favored-nation-clause. It appears as if the article in its present form leaves room for some doubt as to whether or not discrimination in violation of the terms of the treaty may be considered as having taken place, and a full explanation on this point would therefore seem warranted.

Particular reference is made to the term "or revenue laws" at the end of Par. 1. The view is expressed that, even if "revenue laws" include the tariff law, the term covers only such parts of the tariff law as contain stipulations of a sanitary character or prescribe that all imported goods shall be subjected to customs examination, or others of a general character, but should not be considered as comprising the special tariff rates in the law. According to this view the assessment of special dumping duties—prescribed in the Anti-dumping Act at present in force—on Swedish goods would constitute a discrimination and, consequently, a violation of the stipulations set forth in this article, unless said duties were at the same time levied on similar goods from all other countries. Likewise, an application of the principle of reciprocity embodied in certain sections of the Tariff Act of 1922—for instance Par. 1543—against Swedish cement would be considered a discrimination.

In order to make the point above referred to quite clear it would seem as if a more specific wording than is now contained in the last sentence of Par. 1 would be desirable, for instance by adding: "regulations for the enforcement of police and revenue laws relating to merchandise, the importation or transportation of which is prohibited or regulated by law, without discriminating against the other party.["]

b) It is understood that the word "like" article in Par. 2 refers to the same article as previously mentioned in the sentence.

Par. 7.⁵

It is suggested that the words "and merchandise" should be added at the end of the paragraph in order to make the sentence complete.

Par. 8.⁶

a) It is suggested that to Par. 8 a sentence be added to the effect that the privileges granted Cuba and the dependencies shall be excepted only as long as the same privileges are not also granted a third power.

b) On the part of Sweden reservations have to be made, *first*, for the privileges which Sweden has already granted and might in the future grant neighbouring countries in order to facilitate trade on the border, and, *second*, for the privileges which Sweden has granted or might in the future grant Norway or Denmark, or both of these countries, as long as the same privileges are not granted a third state.

ARTICLE VIII

a) An explanation is desirable as to whether or not the transit duties mentioned in Article VIII refer to the same kind of duties as are mentioned in Article XVI.

b) Reservations are necessary on the part of Sweden with regard to certain regulations in the Swedish law, which stipulate a special tax for:

1. Alcohol produced from foreign raw materials in contrast to Swedish raw materials (not from foreign rye, however);
2. Starch produced from foreign raw materials (not from foreign wheat, however).
3. Manufactured tobacco.

ARTICLE IX

a) As there is no general clause in this article giving full equality in every instance between the vessels of the High Contracting Parties, the suggestion is made that the article begin as follows:

"The vessels and their cargo of either of the High Contracting Parties shall, within the ports and the territorial waters of either country, in all instances enjoy the same treatment as national vessels and their cargo, from whatever place they may arrive, and whatever may be their place of destination, and regardless of the origin of the cargo or its destination."

b) The present wording of Article IX requires reservations on the part of Sweden, so that the stipulations in the article do not

⁵ Sixth paragraph of art. VII of treaty with Germany, Dec. 8, 1923; *Foreign Relations*, 1923, vol. II, p. 33.

⁶ Seventh paragraph of art. VII of treaty with Germany, Dec. 8, 1923; *ibid.*

extend to: 1. coastal trade, 2. certain facilities granted Swedish fishermen, and 3. certain privileges accorded Finland with regard to the obligation of the use of pilot.

c) As Article IX shall have only a short duration (12 months) it is desirable to have inserted the same general most-favored-nation-clause as suggested in Article VII, Par. 5.

ARTICLE XI

a) For reasons given verbally, Sweden desires to have the last sentence in this article stating most-favored-nation-treatment with regard to coastal trade stricken out.

b) On account of the shorter duration of this article it would be desirable to have the same general most-favored-nation-clause inserted as suggested in Article VII, Par. 5.

ARTICLE XIV and XV

It would be preferable on the part of Sweden to substitute the present detailed wording of Articles XIV and XV with a more general clause stating most-favored-nation-treatment similar to that contained in the treaty between the United States and Esthonia.⁷

ARTICLE XVI

Sweden being a member of the Barcelona Convention of 1921⁸ has to make reservations in conformity with the stipulations in said convention.

ARTICLE XXX

In case the stipulations in Par. 3, Article XXX,⁹ describing a shorter duration of certain articles in the treaty, should go into effect, Sweden would like to have the assertion that she be granted most-favored-nation-treatment in the points covered by Article VII, Par. 5 and 6, and Articles X and XI.

WASHINGTON, March 24, 1927.

⁷ *Foreign Relations*, 1925, vol. II, p. 70.

⁸ *League of Nations Treaty Series*, vol. VII, p. 11.

⁹ Par. 3 reads as follows: "The fifth and sixth paragraphs of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty."

711.582/22

*The Solicitor for the Department of State (Hackworth) to the
Swedish Minister (Boström)*

WASHINGTON, June 13, 1927.

MY DEAR MR. MINISTER: Supplementing the conversations which you, Mr. Weidel,¹⁰ Mr. Barnes¹¹ and I had Friday, June 3, on questions raised by your Government in regard to certain provisions of the draft of the Treaty of Friendship, Commerce and Consular Rights which is under negotiation, I have pleasure in sending you herewith, agreeably to your request, a memorandum touching the points presented in your memorandum of March 24 last.

Mr. Barnes and I will be glad to discuss with you or Mr. Weidel, at your convenience, any points touched on in these memoranda on which you may desire further explanation or any other questions relating to the provisions of the draft of the Treaty.

Sincerely yours,

GREEN H. HACKWORTH

[Enclosure—Memorandum]

The Department of State to the Swedish Legation

ARTICLE I

Par. 1. (a) The term "local laws and regulations" is understood to comprise all laws and regulations whether National, State, Provincial, Municipal or otherwise duly in force at the time when and at the place where any event occurs which comes within the terms of the paragraph, and applicable to all persons similarly situated; as, for instance, a restriction upon the height of buildings or upon the age and training requirements for admission to a profession.

(b) It is intended by the word "hereafter" to restrict the privileges secured by the most favored nation clause to those which may be granted after the coming into force of the treaty. It is not intended that the word shall be interpreted to include privileges of the most favored nation in force at the time the treaty comes into force. It is to be noted that with respect to such privileges the same treatment is accorded as is accorded to nationals of the country. The United States would have no objection to the omission of the words "hereafter to be" if the Swedish Government so desires.

(c) It is agreed that the concluding sentence of Paragraph 1,—*submitting themselves to all local laws and regulations duly established*—refers to the entire contents of Article I, Paragraph I.

¹⁰ Commercial Counselor of the Swedish Legation.

¹¹ Assistant Solicitor, Department of State.

(d) It is understood that while the treaty confers upon the nationals of each of the High Contracting Parties only the right to own buildings within the territory of the other, it does not exclude such nationals from the right to own land so far as the local laws permit land to be owned by foreigners.

Par. 2. It is understood that the term "internal charges or taxes" refers to charges or taxes imposed upon persons or property within the country, for instance, an income tax or a tax on property, as distinguished from taxes which are a condition precedent to the admission of persons or property into the country, for instance, import duties.

Par. 5.¹² The term "immigrant" as defined in Section 3 of the Immigration Act of 1924¹³ of the United States does not include "an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure". The reservation in paragraph 5 of Article I that nothing contained therein shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes is regarded as applicable to any statutes governing the entry of aliens into the United States and not merely to the provisions of the Immigration Act of 1924 concerning aliens classified therein for the purposes of that Act as "immigrants". It is understood that the stipulation in paragraph 1 of Article I, according most favored nation treatment, is to be applied to tourist traffic, but that this stipulation is limited by the reservation made in paragraph 5.

It is further understood that the requirement at the end of paragraph 1 "submitting themselves to all local laws and regulations duly established" includes the requirements of national laws and regulations respecting passports and visas. Therefore, it is believed that there is no need for a supplemental memorandum to the effect that the High Contracting Parties reserve the right to issue special regulations for the visa of passports.

The United States desires to have the word "Article" in the second line of the fifth paragraph of Article I replaced by the word "Treaty".

ARTICLE II

Article II has the effect of according to aliens the right to treatment under Workmen's Compensation laws similar to that accorded to citizens of the State of the United States in which they reside. While the United States is willing to consider the conclusion of a separate agreement with Sweden covering workmen's compensation,

¹² See footnote 3, p. 741.

¹³ 48 Stat. 1182

it is pointed out that it is believed that the provisions of Article II are as comprehensive as any that the United States would be willing to enter into and that the United States would be glad if it should be acceptable to Sweden in its present form.

ARTICLE IV

It is observed that there are no restrictions in Swedish law similar to those assumed in Article IV.

The Article was drafted in the light of the actual status of the right of aliens to dispose of and to acquire property in the United States by testamentary disposition or in cases of intestacy. The phraseology is similar to that used in earlier treaties of the United States, as for instance, the Convention as to the Tenure and Disposition of Real and Personal Property, concluded March 2, 1899, between the United States and Great Britain.¹⁴ The provision is well known in American law and has served to protect the rights of aliens. Since it is believed that in practice the rights of Swedish nationals will be protected by the Article as drafted, this Government believes it unwise to adopt the suggestion that the Article be redrafted.

ARTICLE V

(a) In the United States the right to exercise freedom of worship as granted in Articles I and V of the draft is understood to include the right to exercise public worship.

The limitation "submitting themselves to all local laws and regulations duly established" in Article I, paragraph 1, is understood to refer to laws and regulations which regulate the exercise of the rights granted in the paragraph. It is not understood to embrace laws or regulations having the effect of preventing the exercise of those rights by certain classes of nationals.

(b) It is understood that the term "at liberty" as used in Article V means that the congregations shall have the right or be free to worship in such buildings as they may have been permitted to erect and maintain. The right to own, erect or lease and occupy appropriate buildings and to lease lands for religious purposes is granted in the first paragraph of Article I.

ARTICLE VII

Par. 1 and 2. (a) The comments made by the Legation will be given more detailed consideration.

(b) It is understood that the word "like" article in paragraph 2 refers to the same article as previously mentioned in the sentence.

Par. 7.¹⁵ It is agreed that the words "and goods" shall be added at the end of paragraph seven. The word "and" in the last line of

¹⁴ Malloy, *Treaties, 1776-1909*, vol. I, p. 774.

¹⁵ See footnote 5, p. 744.

the paragraph before "vessels" will then be omitted. The word "goods" is suggested instead of "merchandise" in order that the wording of the paragraph may be uniform. Paragraph 7 of Article VII will then read, the added words being underlined:^{15a}

"With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals, vessels *and goods*."

Par. 8.¹⁶ (a) It is agreed that there shall be added to Paragraph 8 a sentence to the effect that the privileges granted to Cuba and the dependencies shall be excepted only so long as the same privileges are not granted to a third power.

(b) It is agreed that reservations may be made on behalf of Sweden of the privileges which Sweden has already granted or may in the future grant neighboring countries, in order to facilitate trade on the border.

Paragraph 8 of Article VII will then read, the new provisions being underlined:^{15a}

"The stipulations of this Article do not extend:

"(a) *to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (fifteen kilometers) wide on either side of its customs frontier:*

"(b) *to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,¹⁷ or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws, so long as such special treatment is not accorded to any other State.*"

Sympathetic consideration is being given to the request that a reservation be made in respect of the privileges which Sweden has granted or may in the future grant Norway or Denmark or both of these countries. The Department would be grateful for information in regard to the privileges that are now in existence.

^{15a} The underlined portions are printed in italics.

¹⁶ See footnote 6, p. 744.

¹⁷ *Foreign Relations*, 1902, p. 875.

ARTICLE VIII

(a) It is understood that the transit duties mentioned in Article VIII are duties on articles imported into the territories of the Contracting Parties, whereas those referred to in Article XVI are duties on goods in transit across the territory of a Contracting Party to a destination in a third State.

(b) It is understood that sympathetic consideration will be given to the suggestion that a reservation be made with regard to certain regulations in the Swedish law which stipulate for a special tax on:

1. Alcohol produced from foreign raw materials in contrast to Swedish raw materials (not from foreign rye, however);
2. Starch produced from foreign raw materials (not from foreign wheat, however);
3. Manufactured tobacco;

It is suggested that this reservation, if agreed to, might be made as an exception or proviso in Article VIII rather than in an exchange of notes to accompany the treaty, as was suggested in the Legation's memorandum, in either case provision being made for most favored nation treatment in respect of products of the United States. Before making a final decision as to the acceptance of the proposed reservation, the Department would be glad to have for consideration detailed information in regard to the laws governing these taxes and, if possible, data as to the extent to which American products are involved.

ARTICLE IX

(a) Careful consideration will be given to the suggestion that a paragraph such as proposed in the Memorandum from the Legation of Sweden, be inserted at the beginning of Article IX or elsewhere in the draft giving full equality in every instance between the vessels of the High Contracting Parties. It is mentioned, however, that the stipulations of Article IX as drafted relate only to duties and other charges, and also that in the view of the Department the entire substance of the paragraph suggested by the Legation is embraced in other Articles of the draft, specifically Article VII, paragraphs 1, 5, 6, 7 and 8, and Article XI.

(b) 1. It is believed that no reservation is necessary to prevent the stipulations of this Article applying to the coasting trade as a statement of the non-applicability of the entire treaty to the coasting trade is contained in Article XI.

2. In view of the fact that the rights granted to vessels under the Treaty are granted "under the same conditions" as to national vessels, and as no rights in regard to fishing are granted under the

Treaty, it is believed that there is no necessity for a reservation of certain facilities granted Swedish fishermen.

3. The Department will be glad to be informed in regard to the character of the privileges accorded Finland with regard to the obligation to use a pilot, and to receive from the Legation a draft of the reservation which it asks to have made.

(c) It is agreed that sympathetic consideration will be given to the proposal that a most favored nation clause be inserted in Article XXX to provide for the contingency of the termination of Article IX before the expiration of the remainder of the treaty. (See Article XXX).

ARTICLE XI

(a) Consideration is being given to the request that the last sentence of Article XI according most favored nation treatment with regard to coasting trade be stricken out. The Department asks, however, whether the Government of Sweden would accept the proposal in the draft limited, however, to such privileges in the coasting trade as may be granted in future.

(b) It is agreed that sympathetic consideration will be given to the proposal that a most favored nation clause be inserted in Article XXX to provide for the contingency of the termination of Article XI before the expiration of the remainder of the treaty. (See Article XXX).

ARTICLES XIV AND XV

It is agreed that a most favored nation clause in regard to the treatment of commercial travelers will be substituted for the detailed provisions of Articles XIV and XV, if the treatment in respect of them accorded by each party to the most favored nation is acceptable to the other party. The treatment to which commercial travelers representing Swedish interests would be entitled under a most favored nation clause is that provided in Articles XIV and XV of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany which Articles are identical with Articles XIV and XV of the draft. It is apparent, therefore, that commercial travelers representing Swedish business houses would be accorded the same treatment in the United States under a most favored nation provision as if Articles XIV and XV of the draft are agreed to. A statement of the treatment which commercial travelers representing American merchants, etc., would be accorded in Sweden under the most favored nation clause is desired.

The following most favored nation clause would be agreed to by the United States if the treatment which would be accorded thereun-

der to commercial travelers representing American merchants in Sweden, should after consideration by this Government appear to be satisfactory:

"Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory."

ARTICLE XVI

A statement of the reservations which Sweden would desire to make in conformity with the stipulations of the Barcelona Convention of 1921 on freedom of transit, is desired.

ARTICLE XXX

The Department is willing to give sympathetic consideration to the proposal made by the Legation that provision be made in Article XXX for most favored nation treatment in respect of the provisions of Paragraphs 5 and 6 of Article VII and of Articles IX and XI, in the event of the termination of any or all of these provisions prior to the termination of the remainder of the treaty. It is suggested that the desire of the Swedish Government would be met if changes as follows were made in the third paragraph of Article XXX: Strike out all of the first sentence of that paragraph following the word "enactment" in the 13th line thereof, place a period after enactment, and add a new sentence as follows: "If the fifth or sixth paragraph of Article VII or Article IX or Article XI be terminated or lapse in accordance with the provisions of this paragraph, each of the High Contracting Parties shall enjoy, unconditionally and without compensation, the same treatment in respect of the subject matter of such paragraph or Article as is accorded by the other Party to the most favored foreign nation."

The third paragraph of Article XXX will then read, the suggested new provision being underlined: ^{17a}

"The fifth and sixth paragraphs of Article VII and Articles IX and XI shall remain in force for twelve months from the date of

^{17a} The underlined portions are printed in italics.

exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment. *If the fifth or sixth paragraph of Article VII or Article IX or XI be terminated or lapse in accordance with the provisions of this paragraph, each of the High Contracting Parties shall enjoy, unconditionally and without compensation, the same treatment in respect of the subject matter of such paragraph or Article as is accorded by the other Party to the most favored foreign nation."*

While as hereinbefore indicated the Department is giving sympathetic consideration to this suggestion from the Legation of Sweden, it is believed that it is necessary to remark that such a provision, if included in the Treaty, might become an impediment to ratification by the United States. The third paragraph of Article XXX of the draft conformed strictly to the reservation made by the Senate of the United States when giving its advice and consent to the ratification of the Treaty of December 8, 1923, between the United States and Germany and the provision for most favored nation treatment under consideration would constitute a variation of that reservation which might not be acceptable to the Senate.

Inquiry is made, therefore, whether the Government of Sweden would consider the withdrawal of this proposal.

WASHINGTON, June 13, 1927.

711.582/24

*The Swedish Minister (Boström) to the Solicitor for the
Department of State (Hackworth)*

WASHINGTON, June 14, 1927.

MY DEAR MR. HACKWORTH: Many thanks for your letter of June 13th and the accompanying memorandum relating to certain points in the proposed Treaty of Friendship, Commerce and Consular Rights between Sweden and the United States.

I have not failed to take the matter up with my Government and will be glad to avail myself of your kind offer, should occasion arise later on.¹⁸

Yours sincerely,

W. BOSTRÖM

¹⁸Continuation of negotiations did not result in the conclusion of a treaty.

NONAPPLICABILITY TO THE PHILIPPINE ISLANDS OF ARRANGEMENTS BETWEEN THE UNITED STATES AND FOREIGN GOVERNMENTS FOR RECIPROCAL EXEMPTION FROM INCOME TAX ON SHIPPING PROFITS ²⁰

811.512358 Shipping/27

The Swedish Legation to the Department of State

MEMORANDUM

This Legation has been informed that the authorities in the Philippine Islands have taken steps to tax ships belonging to A/B Svenska Ostindiska Kompaniet in Gothenburg and stopping at Philippine ports.

Section 2, point 5, of Section 213, b.8, of the U. S. Revenue Acts of 1921 and subsequent years, which exempts from taxation, under the principle of reciprocity, the income of a non-resident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship, does not extend to the Philippine Islands, and while it would thus seem that there is no formal hindrance against the Philippine authorities' subjecting Swedish shipping to double taxation in the Philippine Islands, nevertheless the Swedish Government would deem it proper that the same principles which apply between the United States and Sweden regarding the taxation of shipping be extended also to shipping in the Philippine Islands, especially as such privilege has, according to information received by the Swedish Government, been granted to British shipping.

WASHINGTON, August 21, 1926.

811.512341 Shipping/58

The Secretary of State to the Swedish Chargé (Assarsson)

WASHINGTON, August 10, 1927.

SIR: Adverting to the Legation's memorandum of August 21, 1926, and to subsequent correspondence ²⁰ and interviews of the Minister at the Department in regard to the treatment of Swedish vessels in the matter of tax on income derived from operations in the Philippine Islands, I beg to confirm the statement made in the memorandum referred to and in the Department's note to the Legation of May 21, 1927, ²¹ to the effect that the provisions of the Acts of Congress, pursuant to which arrangements are entered into by the United States

²⁰ For correspondence respecting arrangement between the United States and Sweden for reciprocal exemption from income tax on shipping profits, see *Foreign Relations*, 1928, vol. II, pp. 875 ff.

²⁰ Subsequent correspondence not printed.

²¹ Not printed.

with foreign Governments for the reciprocal exemption from tax on income derived from the operation of American vessels in foreign countries and of foreign vessels in the United States, do not apply to the Philippine Islands. I desire also to confirm the information contained in the Department's memorandum of January 26, 1927,²² to the effect that the existing income tax law of the Philippine Islands contained no provision for the reciprocal exemption from income tax on shipping, and that exceptional or preferential treatment had not been extended to British shipping in the Philippine Islands.

Inasmuch as the Acts of Congress, providing for the reciprocal exemption from taxes on income derived from the operation of vessels, do not apply to the Philippine Islands, and since the laws of the Philippine Islands do not provide for any reciprocal exemption, there is no authorization of law for extending to the Philippine Islands the arrangements which have been made for the exemption of foreign vessels from tax on income derived from operations in the United States. You will appreciate that in view of the foregoing the arrangement which the Legation, in its memorandum of August 21, 1926, stated the Swedish Government felt should be extended to the Philippine Islands, cannot, in the present state of the applicable law, be so extended.

With respect to the inquiry made orally by the Minister, whether American vessels in the Philippine Islands are exempt from tax on income, I beg to inform you that it is the understanding of the Department that, under existing law in the Philippine Islands, American vessels do not enjoy exemption from tax on income derived from the operation of vessels in the Philippine Islands. It may be stated, however, that it is the view of the Government of the United States that in the absence of a treaty between the United States and Sweden, granting to Swedish vessels the same treatment in the Philippine Islands that American vessels receive there in the matter of tax on income, the question whether American vessels are or are not exempt from tax on income in the Philippine Islands would have no bearing on the treatment which vessels of Sweden are entitled to receive.

I trust that the foregoing will remove any misunderstanding which exists regarding Swedish shipping in the Philippine Islands.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

²²Not printed.

SWITZERLAND

RESTRICTIONS BY SWISS AUTHORITIES UPON DIPLOMATIC IMMUNITIES OF MEMBERS OF STAFFS OF FOREIGN MISSIONS IN SWITZERLAND

701.05/130

The Secretary of State to the Minister in Switzerland (Gibson)

No. 523

WASHINGTON, October 2, 1926.

SIR: The Department has received your despatch No. 954 of August 7, 1926,¹ relative to the imposition of a fine by the Swiss authorities on your chauffeur, who is understood to be a Swiss national, on account of his alleged violation of the speed regulations. You inform the Department that in answer to representations which you made to the Political Department you were advised by the latter that it was unable to take any action in the matter inasmuch as your chauffeur is a Swiss citizen and, therefore, "not covered by your diplomatic status". You request the Department's advice in the matter.

In reply you are informed that the question whether immunity should be extended to the members of a mission who are subjects of the receiving State does not appear to have been definitely settled.

Oppenheim states (Volume 1, page 544 [455])² that it is a customary rule of international law that the receiving State must grant to all persons in the private service of the envoy and of the members of his Legation, *provided such persons are not subjects of the receiving State*, exemption from civil and criminal jurisdiction.

Woolsey states, on page 1421 [142]³ of his work on international law, that the reasons for the exemption from the local jurisdiction in the case of servants, *especially of natives of the country*, whom the foreign Minister hires, are of little cogency, since, he states, others could be speedily found to take their places, but that this exemption is tolerably well established.

Hyde (Volume 1, page 755)⁴ makes the following statement:

¹ Not printed.

² L. Oppenheim, *International Law, A Treatise* (Longmans, Green, and Co., London, 1905).

³ Theodore Dwight Woolsey, *Introduction to the Study of International Law*, 6th ed. (Charles Scribner's Sons, New York, 1897).

⁴ Charles Cheney Hyde, *International Law, Chiefly as Interpreted and Applied by the United States* (Boston, Little, Brown, and Company, 1922).

"A servant, or other member of the unofficial staff of a mission who is not a national of the State of sojourn, appears to be increasingly regarded as sharing his master's immunity throughout the period of service; yet upon his discharge therefrom, to be subjected to the local law, and punishable, if need be, for criminal acts committed during the course of his employment."

As confirming the foregoing conclusions, reference may be made to the case of the German coachman of the French Embassy at Berlin who was fined sixty marks for a violation of a municipal regulation without any protest being made by the Embassy. (*Revue Générale de Droit International Public*, Volume 2, page 354, 1888). Reference may also be made to the case of the Italian coachman of the German Embassy in Rome, who, in 1881, was condemned to two months' imprisonment by an Italian court, and to the case of the Italian coachman of the Colombian Legation, who was fined twenty lire by the authorities of Rome in 1894. (The same *Revue*, Volume 16, page 378). In the same journal there are cited two instances in which the chauffeurs of the American Embassies in London and in Rome were both held immune from the local jurisdiction, but no mention is made in the article in question to the nationality of these two domestics.

On the other hand, Hershey, on page 142 of his work on *Diplomatic Agents and Immunities*,¹ cites the following from Halleck:²

"It was at one time contended that the subjects of the State to which a public minister is accredited do not participate in his rights of extra-territoriality, but are justifiable by the tribunals of their country. But the better opinion seems to be that, although such State may prohibit its subjects from becoming the employees or servants of a foreign minister, if it do not so prohibit them, they are, while so employed, to be considered without the limits of its jurisdiction."

It would seem from the foregoing that it is not definitely established that as a general principle of international law a chauffeur in the employ of a foreign Minister would, in a case where the chauffeur is a citizen or subject of the country of the Minister's sojourn, be entitled to claim immunity from the local jurisdiction. It may be observed, however, that the rule as given by Halleck appears to have been followed by this Government in the matter of according immunity to the servants of foreign diplomatic representatives in this country.

As you are doubtless aware, Section 4063 of the Revised Statutes contains a provision rendering void any writ or process directed

¹ Amos S. Hershey, *Diplomatic Agents and Immunities* (Washington, Government Printing Office, 1919).

² Sir G. Sherston Baker (ed.), *Halleck's International Law*, etc., 4th ed. (London, 1908), vol. 1, p. 358.

against a public Minister authorized and received as such by the President, or any domestic or domestic servant of such Minister, and Section 4064 imposes a penalty upon persons suing out such writ or process. Section 4065 provides that Sections 4063 and 4064 shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States in the service of a public Minister and the process is founded upon a debt contracted before the citizen or inhabitant entered upon such service.

It will be observed from the foregoing that the provision in Section 4065 of the Revised Statutes concerning American citizens or inhabitants does not relate to offenses alleged to have been committed by them while in the actual employ of a public Minister, and that consequently an American chauffeur of a foreign diplomatic official in this country would be immune from any penalty provided by law for violation of speed regulations. In view of the lack of uniformity in the practice of States with respect to the granting of immunity from the local jurisdiction to employees of missions who are nationals of the receiving State, claim to immunity can hardly be asserted as a general principle of international law. Any representation on the subject would more properly be made on the basis of reciprocity and comity between friendly States.

You are consequently instructed to bring to the attention of the Swiss authorities the provisions of Sections 4063-4065 of the Revised Statutes of the United States, and to point out that American chauffeurs of foreign diplomatic officials in this country are not subject to penalties for the infraction of traffic regulations committed in the course of their employment; that this immunity is granted for the convenience of and as a courtesy to the foreign diplomatic missions; and that the Department considers that it is warranted in inquiring whether on the basis of reciprocity chauffeurs in the permanent employ of your mission irrespective of their nationality may not be accorded like immunity, the lack of which may greatly inconvenience the members of a diplomatic mission in their movement in the country in which they are stationed. You may add that this Government indulges the hope that, as a result of the foregoing assurances concerning the courtesies shown the Swiss Legation at this capital with respect to its employees, the Political Department will take the necessary steps to reciprocate. You will, of course, assure the Political Department that your chauffeur has strict instructions to comply at all times with the pertinent Swiss laws and regulations pertaining to automobiles.

Should the Swiss authorities find themselves unable to adopt the Department's suggestion, the Department will give consideration to the question of removing the names of any American employees of the

Embassies and Legations in Washington not printed in the Diplomatic List. There is appended herewith for your convenience the text of Sections 4063, 4064 and 4065 of the Revised Statutes of the United States:

"Section 4063. Whenever any writ or process is sued out or prosecuted by any person in any court of the United States, or of a State, or by any judge or justice, whereby the person of any public minister of any foreign prince or state, authorized and received as such by the President or any domestic or domestic servant of any such minister, is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, such writ or process shall be deemed void.

"Section 4064. Whenever any writ or process is sued out in violation of the preceding section, every person by whom the same is obtained or prosecuted, whether as party or as attorney or solicitor, and every officer concerned in executing it, shall be deemed a violator of the laws of nations and a disturber of the public repose, and shall be imprisoned for not more than three years, and fined at the discretion of the court.

"Section 4065. The two preceding sections shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States, in the service of a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall the preceding section apply to any case where the person against whom the process is issued is a domestic servant of a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of State, and transmitted by the Secretary of State to the marshal of the District of Columbia, who shall upon receipt thereof post the same in some public place in his office."

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

701.05/136

The Chargé in Switzerland (Marriner) to the Secretary of State

No. 1104

BERNE, January 29, 1927.

[Received February 10.]

SIR: I have the honor to refer to the Department's instruction No. 523, of October 2, 1926, concerning the immunity of the Swiss chauffeur of the Minister, and to enclose a copy and translation of a note from the Federal Political Department¹ in reply to the Legation's note setting forth the substance of the Department's instruction under reference. It will be noted that the Swiss Government refuses to recognize any jurisdictional immunity for Swiss subjects under any conditions and adds that it would see no reason why servants

¹ Not printed.

of the Swiss Minister of the United States of American nationality should not be subject to the local laws under the same conditions. It will likewise be noted that no attention is given to the granting of these immunities as an act of courtesy.

I have [etc.]

J. THEODORE MARRINER

701.05/188

The Chargé in Switzerland (Dolbeare) to the Secretary of State

No. 1232

BERNE, June 10, 1927.

[Received June 28.]

SIR: Upon my arrival in Berne I learned that during the preceding month a clerk in this Legation had violated a local ordinance involving a fine of twenty francs and that the matter had come to the attention of the police. I called immediately upon the householder on whose property the trespass had taken place to give him apologies on behalf of the Legation and of the individual concerned. He was most friendly in the matter and stated that as soon as he had learned the nature of the affair he had at once communicated both with the police and with the Foreign Office to the effect that he had not the slightest wish to sustain the charge. The Foreign Office took no action and I had supposed the matter concluded. Yesterday, however, a police officer called at the dwelling of the clerk bringing to him an official statement that a fine had been imposed on him in the amount of twenty francs plus five francs for the cost of execution.

Calling at the Federal Political Department on another matter, I mentioned this affair and asked whether it was not customary for the Political Department to notify the Legation in the event that one of its staff contravened any of the local regulations or ordinances. My attention was thereupon drawn to a circular issued by the Political Department on February 14, 1921, setting forth the attitude taken by the Swiss Government toward Chiefs of Mission, diplomatic personnel, and "technical or auxiliary official personnel" of the Legations. It appears that in the Swiss view a Chief of Mission enjoys immunity for himself, his family and domestics; other duly accredited diplomatic officers enjoy immunity from the local jurisdiction and freedom from local taxation; the remainder of the Legation's personnel enjoys, by courtesy, exemption from local taxation and from the laws requiring the surrender of passports, but does not enjoy immunity from local police jurisdiction.

This circular instruction was transmitted to the Department with the Legation's despatch No. 514, February 21, 1921, and acknowledged

by the Department's instruction No. 200, May 2, 1921,^{*} but no comment was made on the restriction therein set forth on privileges of the employees of the Legation so far as their submission to the local police is concerned.

It is apparent that strangers in the country unacquainted with all the laws of the place might unwittingly contravene police regulations and there is a distinct possibility of the work of the Mission being handicapped if its staff may be interfered with by the police. On the other hand, the Swiss Government has not only the problem of harboring at Berne a certain number of foreigners in the employ of the various Legations, but has also the problem at Geneva of the extensive Secretariat of the League of Nations which includes hundreds of persons.

I mentioned to the Political Department that I was doubtful whether the American Government had taken full cognizance of the position taken by the Swiss Government in this matter and stated that I should be grateful if the proceedings against the Legation's employee might be delayed until the Legation could acquaint the Department of State with the problem and learn its position in the matter. In the event that the Department of State accords more liberal treatment to duly registered Legation employees in Washington, I should be glad to receive instructions as to what action should be taken. If, however, the Department holds that the employees of foreign Legations in Washington are subject to the police jurisdiction of that city, I should be glad to be informed in order that I may advise the clerk in question to pay the fine without further delay.

I may add that a withdrawal of immunity from employees of the Swiss Legation in Washington would fail to influence the Political Department in the matter. In fact, the official with whom I spoke stated that as these matters were usually on a reciprocal basis he could quite well foresee that the Department would restrict Swiss privileges in Washington and in this event the Political Department could raise no objection. In general, the tendency of the Swiss Government is to restrict the courtesies and privileges accorded to diplomatic officers to a minimum and the Department may wish to consider whether in negotiating a treaty of commerce and amity with Switzerland in the near future it would not be well to include an article defining the privileges and immunities to be accorded on a reciprocal basis to diplomatic officers and Legation personnel of the contracting parties.

I have [etc.]

FREDERIC R. DOLBEARE

^{*} Neither printed.

701.05/138

The Secretary of State to the Minister in Switzerland (Wilson)

No. 24

WASHINGTON, July 29, 1927.

SIR: The Department has received the Legation's despatch No. 1232 of June 10, 1927, in which it is reported that a clerk in the employ of the Legation has violated a local ordinance involving a fine of twenty francs by committing a trespass upon certain property and that notwithstanding the fact that the owner of the property affected was not disposed to press any charge against the clerk, a police officer called at the residence of the clerk and demanded that he pay a fine of twenty francs with an additional cost of five francs. It appears from your despatch that the Swiss authorities hold that a clerk in the employ of a diplomatic mission is not exempt from the local police jurisdiction.

The Department assumes that you have reference to one of the American clerks employed by the Legation and not the Swiss clerk who is a member of the Legation suite. Under the generally accepted principles of international law, the immunities to which a Chief of Mission is entitled are shared by his retinue or suite which includes clerks employed by the diplomatic mission. In view of this principle under which a member of the suite enjoys immunity from the local civil and criminal jurisdiction, the Department does not understand the attitude of the Swiss authorities in apparently holding that the clerk in question is subject to the local police jurisdiction. It is regretted, therefore, that instead of making a demand directly upon the clerk the Swiss authorities did not take up the matter through your Legation.

It is requested that you recall this case to the attention of the Swiss authorities and that you lay especial emphasis upon the fact that not only were apologies for the trespass given on behalf of the Legation, but that the individual upon whose property the trespass occurred had no desire to press the case against the clerk of the Legation. In the circumstances you should express the hope that the charges against the clerk will be dropped. In bringing the matter to the attention of the Foreign Office you may, in referring to the practice of this Government in according immunity to members of the diplomatic mission and the members of their suite, refer to Section 4063 of the revised Statutes of the United States making void any writ or process sued out or prosecuted whereby the person of any public minister of any foreign state or any domestic servant of such minister is arrested or imprisoned; and to Section 4064 of the Revised Statutes providing for the imposition of a penalty upon any one responsible for the issuance of any writ or process described in Sec-

tion 4063. In this relation, you may point out that it is the practice of this Government to regard as included within the protection of these Statutes clerks employed in foreign missions at this capital.

In view of the fact that the Swiss Government has specifically contended that employes of your mission who are of Swiss nationality are not entitled to exemption from the local jurisdiction, the Department regrets that you did not indicate specifically whether or not you were referring to a clerk of American nationality. However, as of possible interest to the Legation in connection with the principles involved in cases where employes of Swiss nationality are concerned, your attention is invited to the Department's instruction No. 523 of October 2, 1926, which deals in some detail with the question involved in the imposition of a fine by the Swiss authorities on a chauffeur, employed by Minister Gibson, who was understood to be a Swiss national. The case was discussed in Minister Gibson's despatch No. 954 of August 7, 1926,⁹ in which the Minister reported that while returning from Berne to Geneva by motor his car was stopped in the streets of the village of Domdidier by a gendarme who took note of the car and the name and address of the chauffeur. Your attention is also invited to an instruction which the Department addressed to the American Chargé d'Affaires at Budapest under date of November 13, 1925, in reply to a request from the Legation to be informed whether the Department had ever issued any instructions to American diplomatic missions on the subject of diplomatic immunities as applied to servants and other employes of foreign missions. A copy of the Department's instruction of November 13, 1925, is herewith enclosed for your information.¹⁰

With respect to the specific case of the clerk referred to in your despatch under acknowledgment, the Department suggests that in view of the small amount involved it may be advisable for you to authorize the clerk to pay the fine under protest with the reservation that this Government does not recognize the right of the Swiss authorities to deny immunity in this case. However, you should not take this course unless you find that the case will be protracted as a result of a determination on the part of the Swiss authorities to refuse to drop the charges against the clerk as requested by your Legation.

The Department notes the statement in your despatch that in general the tendency of the Swiss Government is to restrict the courtesies and privileges accorded to diplomatic officers to a minimum as well as your suggestion that the Department might wish to consider

⁹ Not printed.

¹⁰ Not printed. The Chargé was informed that "The Department does not appear to have issued any general instructions on this subject." (File No. 701/119.)

whether in negotiating a treaty of commerce and amity with Switzerland it would not be well to include an article defining the immunities and privileges to be accorded on a reciprocal basis to diplomatic officers and legation personnel of the contracting parties. Your suggestion in this connection will be kept in mind for possible future consideration.

I am [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

TURKEY

AGREEMENT BETWEEN THE UNITED STATES AND TURKEY TO ESTABLISH DIPLOMATIC AND CONSULAR RELATIONS AND TO PRESERVE THE "STATUS QUO" IN COMMERCIAL RELATIONS, EFFECTED BY EXCHANGES OF NOTES, FEBRUARY 17, 1927

711.672/532b : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

WASHINGTON, January 4, 1927—5 p. m.

1. Treaty will be taken up in secret executive session of Senate today.¹

KELLOGG

711.672/535a : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 11, 1927—6 p. m.

5. For your own information. According to recent developments of opinion in the Senate regarding the treaty, the indications are that the alternative may soon present itself of rejection of the treaty or consent to ratification subject to the condition that ratifications shall not be exchanged until the United States shall have negotiated a naturalization convention with Turkey.²

KELLOGG

711.672/537 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

CONSTANTINOPLE, January 13, 1927—noon.

[Received January 13—10:17 a. m.]

5. From sources unknown to us, Turkish press is inspired with idea that ratification of the treaty by the Senate is foregone conclusion.

BRISTOL

¹The general treaty between the United States and Turkey was signed at Lausanne, Aug. 6, 1923 (*Foreign Relations*, 1923, vol. II, p. 1153). For previous correspondence concerning the ratification of the treaty, see *ibid.*, 1923, vol. II, pp. 974 ff.

²See decision by the Department of State to postpone negotiations for a naturalization treaty with Turkey, *ibid.*, 1923, vol. II, pp. 1191 ff.

711.672/537 : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 13, 1927—5 p. m.

6. Your telegram No. 5, January 13, noon. You should discreetly do everything you can to dispel any idea that advice and consent to the ratification of the treaty by the Senate is a foregone conclusion, indicating that at the present time opposition is particularly active and strong.

In view of the possibility set forth in the Department's No. 5, January 11, 6 p. m., undue optimism in Turkish circles in regard to the approval of the treaty would be more regrettable.

KELLOGG

711.672/539b : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 18, 1927—6 p. m.

9. The treaty failed of approval by the Senate, the vote being 50 for and 34 against.

Be prepared to proceed to Angora immediately upon receipt of complete instructions which are being telegraphed to you separately.

KELLOGG

711.672/539c : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 18, 1927—7 p. m.

10. It is the desire of the Department that you proceed immediately to Angora to confer with Ismet Pasha³ and Tewfik Rouschdy Bey.⁴ You will explain to them that acting under instructions from your Government you have come to Angora to make it clear that the failure of the United States Senate to give its advice and consent to ratification of the treaty should not be considered as a sign that the Government of the United States does not wish to maintain friendly relations with the present Government of Turkey. You will explain that the executive branch of your Government has spared no efforts to obtain the approval of the treaty by the Senate,

³ Turkish Premier.

⁴ Turkish Minister for Foreign Affairs. An alternative transliteration for "Rouschdy" is "Rouchdi".

and that the explanation of the negative action of the Senate is to be found in the domestic political situation in the United States. In this connection you will refer to the failure of this Government to ratify the Versailles Treaty and other treaties negotiated in 1919 at Paris, and indicate that this fact did not prevent the United States from eventually negotiating and ratifying treaties with Germany, Austria, and Hungary. You will terminate this phase of your remarks with an emphatic statement that the Government of the United States wishes to deal in as constructive and positive a manner as possible with the situation which was brought about as a result of the failure to ratify the treaty of August 6, 1923, and that it would sincerely regret any change in the friendly relations which have existed during the past few years between the two countries despite the lack of a modern treaty relationship.

You should say that while access to the markets of the United States is important to Turkish producers, especially of figs and tobacco, and that commercial activity in Turkey is of ever greater interest to American manufacturers and businessmen, and that while the Governments of the United States and Turkey undoubtedly have legal power to meet tariff discrimination with tariff retaliation, the Government of the United States would much deplore any course calculated to lead to such a result. It is confident that with the good will which has guided the actions of both Governments heretofore, the economic interests of both Nations can be preserved and developed on a basis of equality and reciprocity.

After you have used the above considerations to introduce the subject, you should then try to ascertain the views of the Government of Turkey with regard to the situation which resulted from the failure to ratify the treaty and especially with regard to taking one or a combination of the following steps:

(1) An exchange of notes providing for (a) the maintenance of the *status quo* with regard to the treatment of Turks in the United States and the treatment of Americans in Turkey, and (b) a resumption of diplomatic relations.

(2) An exchange of notes which shall accord mutual unconditional most-favored-nation treatment in customs matters, to be followed, as a separate and further step, by the resumption of diplomatic relations. The United States has made such agreements according mutual unconditional most-favored-nation treatment in customs matters with eleven countries including Brazil, Czechoslovakia, Greece, Latvia, and Lithuania.*

(3) A resumption of diplomatic relations without a previous exchange of notes.

In general, the Government of the United States would prefer to reach an agreement with the Government of Turkey by an exchange

*For citations to these agreements, see footnotes to instruction No. 1162, Aug. 21, 1926, to the Ambassador in Brazil, *Foreign Relations*, 1926, vol. 1, p. 569.

of notes prior to the resumption of diplomatic relations rather than vice versa.

In your inquiries with regard to these several steps, you should make it clear that these inquiries are wholly personal and informal and that you are making them solely for the purpose of enabling you to formulate the appropriate recommendations to your Government.

If, in the course of your conversations at Angora, the question of the attitude of the Government of the United States towards the abolition of the capitulations should be raised, you will state that as a practical matter this subject has not arisen during the past few years. In this connection you should also state that the present non-capitulatory regime in Turkey has twice been formally, although by implication, recognized by the Government of the United States, through an exchange of notes, February 18, 1926,^a and July 20, 1926.^a

Telegraph detailed report of your conversations at Angora and your recommendations. Do not leave Angora until you receive further instructions.

It is the desire of the Department that you take every precaution to preserve the confidential character of this instruction.

KELLOGG

711.872/540 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, January 19, 1927—7 p. m.

[Received 7:47 p. m.]

8. Department's No. 10, January 18, 7 p. m.

(1) Since the action of the United States Senate is advisory, am I authorized to intimate to the Government of Turkey that the President of the United States has not rejected the Lausanne Treaty and thereby persuade the Government of Turkey to withhold consideration of the above treaty by the Grand National Assembly?

(2) Also, can I suggest the possibility of the treaty being resubmitted at the next session of the Congress for consideration, and cite as precedents the delay in ratification of the Isle of Pines treaty^c and the Colombian treaty?^c

Any means to gain time for the consideration of the whole question will be very helpful. I leave for Angora on the 20th with Patterson.

(3) In order that I may be prepared to meet all questions of the Government of Turkey, could the Department inform me as to the

^a *Foreign Relations*, 1926, vol. II, pp. 999-1000.

^b Not printed. They were substantially the same as those exchanged on February 18, 1926.

^c *Foreign Relations*, 1925, vol. II, p. 1.

^d *Ibid.*, 1922, vol. I, p. 974.

procedure for the resumption of diplomatic relations? Would a Chargé d'Affaires or an Ambassador be sent? May I recall to the attention of the Department that Turkey has not entered into diplomatic relations with other countries until after the exchange of ratifications of treaties of amity has taken place.

BRISTOL

711.672/540 : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 20, 1927—6 p. m.

12. Your telegram No. 8, January 19, 7 p. m.

(1) The President has not rejected the treaty. On the contrary, he has done everything possible to secure its ratification. The United States Senate, however, did refuse its consent to ratification. You should make this clear to the Government of Turkey.

(2) It is within the discretionary power of the President to resubmit rejected treaties to the United States Senate for reconsideration. However, it would not be practicable to resubmit the American-Turkish treaty of August 6, 1923, to the United States Senate, because only five Democratic members voted for consent to ratification. In December 1927, a new Senate will come into existence, but it is doubtful whether it will be advisable to resubmit the treaty to that Senate. However, if you think it would be helpful, you may sound out the Government of Turkey on this point.

(3) By accrediting an Ambassador, diplomatic relations would be resumed.

The Department is aware of the attitude previously taken by the Government of Turkey in not entering into diplomatic relations prior to the exchange of ratifications of a treaty of amity. It entertains the hope, however, that one of the two procedures set forth in paragraphs numbered (1) and (2) of the Department's telegram No. 10, January 18, 7 p. m., may be acceptable to the Government of Turkey in lieu of a treaty of amity.

KELLOGG

711.672/540a : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

WASHINGTON, January 21, 1927—11 a. m.

13. You may consider it helpful to give publicity to the following extracts from editorials in leading American papers concerning failure of Senate to approve Treaty:

"Our only suggestion is that this young republic (Turkey) show that what she has written into law she intends to carry into effect, and

make manifest, even to those who have opposed the treaty, the seriousness and honesty of her purpose. Magnanimity in this crisis will be the best proof of her worthiness. The real question is: 'What will Turkey do next'. Her answer will be fateful for herself." From *New York Times*, January 20.

"It is time for us to learn to think of Turkey as a nation that has won her independence and cast off the galling 'guarantees' once worn by the 'sick man of Europe'. We must learn to deal with modern Turkey on equal terms and to meet problems of citizenship one by one by negotiation, just as we do where other independent nations . . .¹⁰ are concerned." From *New York World*, January 20.

"Rejection by the Senate of the Lausanne Treaty with Turkey was a rather absurd performance." From *Philadelphia Public Ledger*, January 20.

"With the emotions of those Democratic Senators who gave the votes that prevented the two-thirds majority necessary to ratify the Lausanne treaty, one may have much sympathy; for their discretion and judgment one finds it difficult to have great respect." From *Baltimore Sun*, January 20.

"The defeat of the Lausanne Treaty in the Senate is nothing less than a disgrace." From *Brooklyn Daily Eagle*, January 19.

"In rejecting the Lausanne Treaty with Turkey a minority in the Senate sacrificed common-sense diplomacy to ancient prejudices and rancors. . . .¹⁰

Seldom has a decision in foreign affairs been taken with more irrelevant emotion and greater disregard for realities." From *New York Herald-Tribune*, January 19.

KELLOGG

711.672/542 : Telegram

The High Commission in Turkey to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, January 21, 1927—6 p. m.

[Received January 22—2:22 a. m.]

11. Your telegram No. 10, January 18, 7 p. m. Yesterday Admiral Bristol left for Angora. Although the local press is manifesting its disappointment over the Senate's nonratification of the treaty, still its tone is mild and dignified. Thus far comment is devoid of hostile criticism or suggestions of retaliation. In general, the press expresses its satisfaction that a considerable majority voted in favor of the treaty, but it regrets that under the Constitution a small majority [*minority?*] can dominate the situation. The comment of the Constantinople organ *Milliyet* is as follows:¹¹

"The situation from the point of view of law is the following: The President has concluded a treaty with Turkey. He has asked

¹⁰ Omission indicated in the original telegram.

¹¹ Quotation not paraphrased.

the assent of the Senate to its ratification. Under the Constitution a two-thirds majority is necessary. The Senate has not accorded this assent by a two-thirds majority. Therefore, under these conditions, the President, if he sees fit, will reject the treaty; if he does not see fit he will wait and again submit it to the Senate. How the President will act is not yet known. In any case, however, it is not believed that he will reject the treaty, because it is well known that the American Government is a strong partisan of entering into relations with our Government. Moreover, President Coolidge and Foreign Minister Kellogg have stated on numerous occasions that it is not possible to conclude with Turkey a better treaty than this one. The American Constitution places in the hands of the President the conduct of foreign affairs. The President is absolutely responsible for foreign relations. Therefore, if he believes the entering into relations with Turkey to be absolutely necessary he may do this even without a treaty. So extensive is the executive authority in the United States. In view of this explanation it is necessary to await the action of the President of the United States and not to attach too much importance to the decision of the Senate".

CROSBY

[Counselor of Embassy]

711.672/542a : Telegram

The Secretary of State to the High Commission in Turkey

[Paraphrase]

WASHINGTON, January 22, 1927—1 p. m.

14. Refer to Department's telegram No. 12, January 20, 6 p. m., paragraph numbered (2). During the last few days there have been indications that some of the opponents of the treaty are commencing to be worried over the consequences of their actions. There has even been talk that if the treaty were to be resubmitted to the United States Senate, it might be approved, particularly if there were a reservation which recognized American naturalization of former Ottoman subjects and Turkish citizens.

The above-mentioned tendencies are still very hazy and may be nothing more than an effort to obscure the issue in the United States. On the other hand, these tendencies might possibly be developed into something more tangible should the Government of Turkey take an attitude which would indicate the desirability of resubmitting the treaty to the Senate. So far the Department has discouraged any development along those lines, but would be ready to consider the adoption of a different attitude if you should so recommend after sounding out the Government of Turkey.

In sending this telegram to you the Department has in mind the first reactions of the press of Turkey as set forth in your telegram No. 11, dated January 21, 6 p. m.

The Department presumes that the High Commission is repeating its telegrams to Admiral Bristol at Angora with every possible speed.

KELLOGG

711.672/547: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, January 22, 1927—8 p. m.

[Received January 23—1:42 a. m.]

1. This evening I presented an *aide-mémoire* to Tewfik Rouschdy Bey combining official report [*sic*] that although the Government of the United States had spared no efforts to obtain its favorable reception, the treaty had failed to receive the approval of the Senate; that the negative action of the Senate should not be construed as implying any lack of desire by the Government of the United States to maintain friendly relations with the Government of Turkey; and that the Government of the United States would sincerely regret any alteration in the cordial relations which have existed during the past few years between the two countries. I delivered orally the additional explanations contained in Department's telegram No. 10, January 18, 7 p. m.

Guided by the Department's instructions, and with the Senate resolution as a preface, I discussed in person and informally with Tewfik Rouschdy Bey the matter of a resumption of diplomatic relations between the Government of the United States and the Government of Turkey. In reply to my explanation that I desired his reaction in order to assist me in making recommendations to my Government, he made the request that the recommendations be withheld until after our second conversation which is to take place January 24, since he desires in the meantime to make a further study of the situation and to communicate with the Council of Ministers.

He desires particularly to be supplied with further details regarding the circumstances under which the treaty failed of ratification. He specifically requested information on the following points: (1) The number of Senators who voted for and against the treaty who will have seats in the Senate which will convene next December; (2) the points of the treaty which were especially attacked; and (3) the text of or a résumé of the resolution under which the treaty was put to a vote.

BRISTOL

711.672/548: Telegram

The High Commission in Turkey to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, January 23, 1927—1 p. m.

[Received 7:55 p. m.]

12. Department's telegram No. 14, January 21 [22], 1 p. m. The Government organ *Milliyet*, and the semiofficial paper *Djumhuriyet*,

print editorials today which are believed to be strongly indicative of Turkish official opinion. The *Milliyet* states: "Our attitude will be one of dignified indifference." The *Djumhuriyet* urges that Americans be not made the object of any treatment which is different from that applied to all other countries; and states that Turkish circles are convinced that the rejection of the treaty by the United States Senate is a mere accident. Since my telegram No. 11, January 21, 6 p. m., all press comment has been distinctly conciliatory and friendly, and this attitude has been assumed by such Turkish officials I have met, including the Chairman of the Committee on Foreign Affairs of the Grand National Assembly.

All telegrams received from the Department or which are sent by me, are being sent immediately to Angora to the High Commissioner.

CROSBY

711.672/547: Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 23, 1927—9 p. m.

1. Your telegram from Angora, No. 1, January 22, 8 p. m., concluding paragraph. With regard to the information contained in the Department's recent telegrams as to the circumstances under which the treaty failed to secure the approval of the United States Senate, there is little to add. The final vote in the Senate was practically along party lines, and the explanation of the result is to be found in the domestic political situation, which had little or no relation to the merits of the case. In reply to the specific points set forth in the concluding paragraph of your telegram, the following may be useful to you:

(1) The Democrats will have seven more members in the next Senate, but one should not consider it to be a foregone conclusion that all of these Senators would be opposed to the treaty.

(2) No special provision of the treaty and annexed documents was particularly attacked. In the mind of the opposition the naturalization question appeared to hold a prominent place, but in the resolution of consent to ratification a condition on this subject was included, and did not seemingly affect the final vote materially.

(3) Two reservations recommended by the Foreign Relations Committee and described in the Department's mail instruction No. 734, April 8, 1926,¹² and a condition that the exchange of ratifications should not take place until a convention on naturalization had been made, were included in the resolution of consent to ratification. Since the two reservations are not of major importance, it would probably be unwise to mention them to Tewfik Rouschdy Bey.

¹² Not printed.

You should carefully keep in mind the following considerations when sounding out the Government of Turkey:

(1) The main objective of our present negotiations is to establish some kind of official relations with the Government of Turkey by an exchange of notes or by the resumption of diplomatic relations, or by a combination of these two means.

(2) If it is possible to attain this objective and at the same time or later make an attempt to revive the treaty, so much the better.

(3) A resubmission of the treaty to the Senate would be contingent, however, upon an agreement among the Democratic Senators to reverse their earlier position and to vote for the treaty without objectionable reservations. The hazy situation set forth in the Department's telegram No. 14, January 22, 1 p. m., is far from the definite agreement necessary before the President could reconsider a resubmission of the treaty to the Senate.

(4) We should be in a worse situation with Turkey than at present were we to rely exclusively on the possibility of resubmission and that possibility fail to materialize; however, if the resubmission idea is carefully subordinated to the main objective of resuming official relations with the Government of Turkey, we can, if nothing comes of resubmission, at least fall back on those relations.

In summary, we should like to salvage the treaty. However, to make the future of our relations with Turkey dependent upon any such salvaging would be dangerous.

KELLOGG

711.672/549 : Telegram

The High Commission in Turkey to the Secretary of State

CONSTANTINOPLE, January 24, 1927—3 p. m.

[Received 10 p. m.]

13. Admiral Bristol requests me [to] inform you he has given to Angora press substance of your 13, January 21, 11 a. m., which I am giving to local press. He requests he be furnished with statements of opposition press which he believes would also be useful.

CROSBY

711.672/550 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, January 24, 1927—midnight.

[Received January 25—1:06 p. m.¹³]

3. Department's telegram No. 10, January 18, 7 p. m. and my telegram No. 1, January 22, 11 a. m. [3 p.m.] At today's conference, as

¹³ Telegram in two sections.

well as at the one which took place on January 22, I found Tewfik Rouschdy Bey very cordial. He showed the best of good will and said that he was in accord with the Government of the United States in desiring to maintain in the future the cordial relations that have existed during the past few years. On behalf of his Government and himself he likewise expressed appreciation of the message which I conveyed to him pursuant to the Department's instructions.

During both conferences we made it entirely clear that the questions which were raised by me, and in a lesser degree by the Minister, together with all discussions, were personal, without commitment, being intended primarily for the purpose of developing every aspect of the situation without prejudice to the final issue.

Below is a recapitulation of the suggestions which were made today by the Foreign Minister:

(1) As the most practical and immediate solution he proposed the negotiation of a simple treaty of amity having the general character of the treaty which was concluded with Denmark, January 26, 1925. See High Commissioner's despatch No. 1994, July 19, 1926, enclosure.¹⁴ He made the following points in developing this suggestion:

(a) He is persuaded that with a document of this character he would be able to secure from the Assembly the authority to renew the existing *modus vivendi* between the United States and Turkey or to negotiate a new arrangement which would aim to continue the *status quo* for a given time, for instance, one year.

(b) That the matter of ratification could be met at any time mutually convenient to both Governments.

(c) That while provision would be made in this treaty for negotiating separate conventions respecting commercial, consular, and residence relations, no time or date would be specified therefor. His proposal also indicated a willingness to [include in?] the convention with Denmark in supplement of the stipulations as they appear in the treaty form referred to in paragraph (1), such provisions for negotiating other conventions automatically carried in the treaties of Lausanne, August 6, 1923, specifically a treaty of extradition and a naturalization convention.

¹⁴ Neither despatch nor enclosure printed; the pertinent articles of the treaty read as follows:

ARTICLE 2. The High Contracting Parties agree to establish diplomatic relations between the two States in conformity with the principles of international law. They agree that the diplomatic representatives of each of them shall, subject to reciprocity, receive in the territory of the other the treatment recognized by the principles of general international law.

ARTICLE 8. The High Contracting Parties agree that consular and commercial relations between their respective countries and also conditions for the residence and settlement in their respective territory of subjects of the other Party shall be regulated by conventions to be concluded in conformity with the principles of international law on a basis of complete reciprocity. (League of Nations Treaty Series, vol. xxxvi, p. 817.)

(d) Following the signing of such a treaty by duly designated plenipotentiaries, and pending the exchange of the ratifications, the Government of Turkey would send to the United States a diplomatic representative having the same rank now enjoyed by the representative of the United States in Turkey, while reserving to the latter the same position and ascribing to his position the same character as at present; the understanding being that as soon as possible after the exchange of the ratifications Ambassadors should be accredited on the basis of those ratifications.

(e) He declared to be not feasible any exchange of notes which provided for a *modus vivendi* for other than commercial relations in the interval or which such a treaty should rest in force pending the negotiating of separate conventions embracing those subjects in a specific emergency.¹⁵ In connection with his proposal he stated that conditions affecting residence, consular, and other relations should be in conformity with international usage, and that this principle in practice would take the form of a continuation of the regime under which these relations had been placed pending the ratification of the Treaty of Lausanne.

(2) When he had been acquainted with the technical possibility of resubmitting a treaty to the United States Senate and was approached regarding his attitude in connection with a possibility thus theoretically raised, he was evasive, but made it absolutely clear that his preference was with the proposal for a treaty like the one described in paragraph (1), and that the attitude which he entertained toward the one procedure was analogous with that for the other. He emphasized his preference, however, by characterizing the procedure he had elaborated as being both more expeditious and practical.

(3) Regarding the question of the resumption of formal diplomatic relations as outlined in the Department's instruction, the Minister's reaction has always been most emphatic. He holds firmly to the viewpoint that there can be no resumption of relations involving the appointment of Ambassadors without an exchange of ratifications of the treaty of amity, which he has suggested, or another treaty making special provisions for diplomatic relations.

(4) The impressions which I gained from our interview January 22 of a prearranged plan supposed to have been reached by the

¹⁵ The above passage is evidently garbled. An excerpt from Admiral Bristol's confidential diary of Jan. 24, 1927, copy of which was enclosed in despatch No. 2187, Feb. 28, 1927, from the Counselor of Embassy in Turkey, reads: "The Admiral then enquired, making it plain that he again sought an opinion and not a decision, as to the possibility of exchanging notes providing for a *modus-vivendi* for consular, residence and other relations, in supplement to a prolongation of the *modus-vivendi* now in force as regards commercial relations, until such time as separate conventions on those subjects could be negotiated. The Minister responded that no formal arrangement covering those matters would be practical, except regular conventions." (File No. 887.00/1955.)

Government of Turkey were confirmed during today's negotiations. They were substantiated further by a telegram which was sent to the Foreign Minister that the moderate tone of the press is due to instructions coming from the Government of Turkey.

(5) Although Turkey's point of view may be slightly influenced by a wounded self-esteem, nevertheless, I am convinced the program of the Minister for a simple treaty of amity is essentially dictated by the desire to be definitely released from our treaty which embraces certain provisions which the Government of Turkey is very reluctant to accord countries which are now negotiating consular conventions.

(6) The Foreign Minister and I agreed that, pending my receipt of instructions from the Department after which we would again confer, a complete *status quo* should be maintained. Please instruct me whether or not I should make further attempts to have the Government of Turkey agree to the resumption of diplomatic relations. I will then be ready to make my recommendations.

BRISTOL

711.672/549 : Telegram

The Secretary of State to the High Commission in Turkey

[Paraphrase]

WASHINGTON, January 25, 1927—5 p. m.

16. Your telegram No. 13, January 24, 3 p. m. Most of the leading newspapers, regardless of their political views, have carried editorials criticizing the action of the United States Senate on the treaty with Turkey. There has been little or no editorial comment approving the Senate's action.

To overemphasize the significance of editorial comment would be unwise. Many leading newspapers in the past few months in their editorials have urged the approval of the treaty, but this fact apparently had no particular influence on the action of the Senate.

KELLOGG

711.672/551 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, January 25, 1927—6 p. m.

[Received 7 p. m.]

4. This afternoon I had a cordial conference with the Prime Minister, Ismet Pasha. He stated that the *aide-mémoire* which I delivered regarding the attitude of the Department had made a very favorable

impression upon the Government of Turkey, and that the efforts made by the Government of the United States to secure the ratification of the treaty were very much appreciated. He said that he considered the ratification of a treaty and the establishment of diplomatic relations between the two countries to be more of a moral obligation than a material one. When he asked me if I had conferred with the Minister for Foreign Affairs and if I believed that arrangements could be made for the future relations of the two countries, I suggested, in conformity with the Department's instruction, the possibility of immediately resuming regular diplomatic relations through the appointment of Ambassadors. I received the same reaction from the Prime Minister that I had received from the Minister for Foreign Affairs. The Prime Minister added that a treaty of amity, such as the Minister for Foreign Affairs had suggested, could be signed immediately and be ratified by the United States Senate. Without committing myself, I said that I would transmit his suggestion to my Government and would expect a reply from Washington in two or three days. I shall await the instructions which I requested in my telegram No. 3, January 24, midnight.

BRISTOL

711.672/550 : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, January 27, 1927—10 a. m.

3. Your telegrams No. 3, January 24, midnight, and No. 4, January 25, 6 p. m. The Department is not altogether able to reconcile certain paragraphs in your telegram No. 3, namely, paragraph numbered (3) and next to last sentence of paragraph numbered (6). It is not, therefore, altogether clear to the Department whether there is any possibility that Tewfik Rouschdy Bey will change his reaction towards resuming diplomatic relations prior to the exchange of ratifications of some kind of a treaty.

If the resumption of diplomatic relations is made to depend upon the exchange of ratifications of a treaty requiring the consent of two-thirds of the Senate, then the formal, official contact between the United States and Turkey, which the Government of the United States desires to see reestablished in the shortest possible time, will be rendered uncertain or at the most subject to delay. The Department is cognizant of the practice of the Government of Turkey not to resume diplomatic relations until after the exchange of ratifications of a treaty has taken place. In view of the constitutional role which the United States Senate has in the ratification of treaties and the

attitude of the minority party in the Senate at this time, the above-mentioned practice of the Government of Turkey has consequences for the relations between the two countries which it very clearly has not had for the relations between Turkey and other nations. You should likewise keep in mind that a brief treaty of amity might prove to be even more objectionable to the United States Senate than the Lausanne Treaty.

Would the Government of Turkey, for instance, be willing to resume diplomatic and consular relations with this country on the basis of an exchange of notes which would reproduce article 2 of the treaty with Denmark, signed January 26, 1925, but modified so that it would apply to consular relations as well as to diplomatic relations? In addition, this exchange of notes should contain or be supplemented by assurances along the lines of those which Tewfik Rouschdy Bey mentioned in paragraph numbered (1), point (a), and in the last sentence under point (e), of your telegram No. 3.

If the Government of Turkey fears that the Government of the United States at some future time might endeavor to revive the capitulations, you should inquire very discreetly whether that fear might not be allayed by including an understanding in the above exchange of notes that in case the Lausanne Treaty is not ratified when the next session of Congress closes, possibly as late as June 1928, consideration will then be given to the negotiation of an extradition treaty and of conventions of establishment and residence, commerce, naturalization, and consular rights.

The procedure set forth in the above paragraphs, you will note, covers practically every matter mentioned by Tewfik Rouschdy Bey, but by an exchange of notes rather than by a treaty.

You should discuss the above matters with Tewfik Rouschdy Bey as thoroughly as possible consistent with the informal and exploratory nature of your present conversations, and telegraph the Department as soon as possible your definitive recommendations.

KELLOGG

711.672/552: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, January 30, 1927—noon.

[Received January 31—5 p. m.¹⁶]

5. (1) From your telegram No. 3, January 27, 10 a. m., it appears that the Department wishes, if practicable, to resume diplomatic relations between the United States and Turkey involving the appoint-

¹⁶ Telegram in three sections.

ment of Ambassadors as soon as possible and to avoid the delay involved in waiting for the exchange of ratifications of a treaty.

(2) From my conversation yesterday evening, January 29, with Tewfik Rouschdy Bey, I am led to the belief that possibly he will agree to an exchange of notes providing for the resumption of diplomatic and consular relations. In connection therewith there were tentatively developed the following points: (a) An exchange of notes; (b) a renewal of the present commercial *modus vivendi* for 6 months; (c) the immediate negotiation and signing of a treaty of amity; (d) a further extension of the commercial *modus vivendi* by a new Turkish law; (e) the appointment of an Ambassador after the 1st of next June; (f) resubmission of the Lausanne Treaty to this or the next session of Congress; and (g) negotiation of conventions which will cover all necessary future relations between the United States and Turkey.

(3) With reference to the above points:

(a) The Minister for Foreign Affairs was agreed that an exchange of notes would afford a satisfactory basis for the resumption of diplomatic relations, but was in doubt whether it was possible under international law to accredit Ambassadors by means of a simple exchange of notes. In reply to my opinion that there were precedents for that, he consented to study the question and to make known his decision at our next meeting. Thus far I have found no pertinent precedents, and I urgently request the Department to telegraph references which may be cited as examples where this procedure has been followed in the past.

(b) After consulting the Turkish law of January 1926, the Minister for Foreign Affairs stated that the present commercial *modus vivendi* can be renewed for another period of 6 months, but that no further renewal would be possible after August 20 next, under existing statutes.

(c) I was given to understand by the Minister for Foreign Affairs that the concluding of a treaty of amity before the present Assembly goes into recess, probably in April, [will be] co-essential to the procurement from the Assembly of the necessary authority to conclude a new *modus vivendi*, which would remain in force after the present [one] expires and until a definitive commercial convention is concluded.

(d) He told me confidentially that if a treaty of amity is concluded well before the Assembly adjourns, he is virtually certain of being able to safeguard legislation referred to in point (c).

(e) I was told by the Minister that it would not be advisable to send an Ambassador to the United States until after the 1st of next June, at which time the new fiscal year commences and before which time credits cannot be made available.

(f) He told me that if the Government of Turkey were to be furnished with a formal statement to the effect that the action of the United States Senate on January 18 does not constitute a final disposition of the Lausanne Treaty, and, further, that if the treaty will be resubmitted to the United States Senate during the present or the next session of the Congress, the treaty will not be withdrawn from the Committee on Foreign Relations of the Grand National Assembly. That conditional upon such assurances, and when it is deemed desirable to present the treaty to the Assembly, it can be submitted with no modifications. However, he stated his rather strong conviction that inasmuch as the Lausanne Treaty was negotiated in a hasty manner and as economic conditions have changed since that time, it would be to the mutual interest of both Governments to have the treaty modified before it is definitely accepted as a basis for the future relations of the two Nations. He made the point in arguing further against the Lausanne conventions that the commercial provisions would have only some two years yet to run. Of course, I did not agree to this last contention. It appears reasonably certain now that if the present treaties should be submitted intact to the Assembly, they would only be voted with modifications or reservations.

(g) Minister was agreed that any exchange of notes that might be made should contain stipulations for negotiating, at some future time, conventions covering the different categories and relations defined in the Lausanne Treaty and its annexes. The Minister implied that he would be disposed to consider the convention on claims of December 24, 1923,¹⁷ as coming into force only after the exchange of ratifications of the Lausanne or other commercial and supplementary conventions. He was reluctantly disposed to agree that if the Government of the United States were to furnish the statement and assurances set forth in sentence one of (f), the agreements concluded at Lausanne might be entirely inadequate to fulfill the stipulations with regard to the future accords which any such exchange of notes would necessarily call for. The comments of the Minister on these points confirm my belief that he has a marked preference for a procedure which will involve the negotiation of new conventions rather than the utilization of the Lausanne Treaty.

(4) I recommend the following as the next [step] in my negotiations: (a) That formal and concrete proposals replace the informal conversations, and that I should present such proposals as instructions from my Government; (b) then, if the Government of Turkey should favorably consider a procedure which has the character of an exchange of notes, I should suggest a protocol of agreement

¹⁷ See exchange of notes between the United States and Turkey providing for the establishment of a joint committee to examine claims, Dec. 24, 1923, *Foreign Relations*, 1923, vol. II, pp. 1172, 1190.

for resuming diplomatic and consular relations, which would take the general form of the protocol of a basis for the establishment of peace between the United States and Spain, signed at Washington on August 12, 1898.¹⁸ Referring to the translation of the treaty between Denmark and Turkey, which was annexed to my despatch No. 1994 dated July 19, 1926,¹⁹ article 1 of the proposed protocol would be exactly the same as article 2 of that treaty with the exception, that the word "consular" would be appropriately inserted. Article 2 would become article 3 with the necessary additions to provide either for resubmitting the Lausanne Treaty or the negotiation of conventions covering the separate provisions of the Lausanne Treaty as well as extradition and naturalization conventions, and exchange of notes respecting claims. The preservation of the *status quo* with regard to the treatment of Americans in Turkey and the treatment of Turks in the United States would be provided for in article 3. The final draft protocol would be submitted to the Governments for their approval and authorization to sign.

(5) I submit the following in explanation of the [above?] recommendations:

(a) I believe that the informal and personal inquiries, as well as the discussions, have now reached the point where future relations and negotiations may be prejudiced if we pursue them further. However, the Department may rest assured that I will use informal discussions and refrain from committing either the Government or myself should discretion dictate a resort to such a policy.

(b) I suggest a protocol rather than an exchange of notes because of my belief that this more formal procedure would be more acceptable to the Minister for Foreign Affairs. Also, it appears that many instances can be cited as direct precedents when a protocol has been made to serve as an agreement which has been entered into preliminary to the conclusion of definitive treaties. I have not been able, on the other hand, to find a single instance where an exchange of notes has been employed to meet a like situation.

(6) Since it will be necessary to safeguard business interests, especially now that the *modus vivendi* between the two countries is valid for only 3 more weeks, I urgently request that the Department give me a free hand to renew this arrangement at my earliest opportunity, irrespective of the fact that such an act might be related to other negotiations now being carried on.

BRISTOL

¹⁸ *Foreign Relations*, 1898, p. 828.

¹⁹ Not printed, but see Commissioner's telegram No. 3, Jan. 24, footnote 14, p. 775.

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, February 1, 1927—6 p. m.

4. Your telegram No. 5, January 30, noon. The following references are to your paragraphs:

(1) The Government of the United States desires to resume diplomatic relations with the Government of Turkey as quickly as possible and through the appointment of Ambassadors. On this point your understanding is correct. Next June would be agreeable to the Government of the United States as the time to accredit Ambassadors.

(3) (a) The Government of the United States does not consider that any formal and written agreement, exchange of notes, protocol, convention, or treaty is a necessity, or even a usual condition, precedent to a resumption of diplomatic relations. Ambassadors and Ministers are accredited by presenting letters of credence to the Chief of State, the *agrément*s having previously as a matter of courtesy been asked and received, and not by an exchange of notes.

The practice of the Government of the United States has been as outlined above. For instance, the Government of the United States established diplomatic relations with Czechoslovakia and Poland in 1919.²⁰ No treaties or conventions have as yet been negotiated between this Government and those two countries. Nevertheless, in deference to Turkey's point of view, this Government, while maintaining the position that treaty relations and diplomatic relations are not interdependent, would be prepared, in a protocol or an exchange of notes, to provide for the resumption of diplomatic and consular relations.

Certain cases where there have been exchanges of correspondence in connection with the resumption of diplomatic relations are as follows: Mexico, 1923;²¹ Nicaragua, 1926;²² and Brazil, 1927.²³ While these notes have referred to the resumption of diplomatic relations, they have also dealt with the settlement of certain questions which were at issue between the two Governments.

(3) (b), (c) It is the understanding of the Department that the *modus vivendi* mentioned under (b) is the one which was negotiated first on February 18, 1926, and renewed on July 20, 1926. Further, that this *modus vivendi* can now be renewed for a period of 6 months from February 20, next. The *modus vivendi* mentioned under (c) is seemingly a new *modus vivendi*, identical to the first *modus vivendi* with respect to its scope, but having an indefinite duration from August 20, 1927, until either a new commercial convention is negotiated or the commercial clauses of the Lausanne Treaty come into effect.

²⁰ See *Foreign Relations*, 1919, vol. II, pp. 85 and 741, respectively.

²¹ *Ibid.*, 1923, vol. II, p. 522.

²² See *ibid.*, 1926, vol. II, footnote 85, p. 807.

²³ See *American State Papers, Foreign Relations*, vol. VI, pp. 1021-1121.

(3) (f) Since the Senate's role in the ratification of treaties is advisory, the Senate's action on January 18 with respect to the American-Turkish treaty does not constitute a final disposition of that treaty. If you so desire, you may make a formal statement to that effect to the Government of Turkey. The Executive cannot limit its freedom of action by agreeing to resubmit a treaty within a given time or even to resubmit a treaty at all. The resubmission of the American-Turkish treaty to the Senate would depend upon how opinion develops both in the Senate and throughout the country. No one, of course, can foresee this development. You may state, however, that the Executive would naturally desire to resubmit the treaty if conditions in the country so warrant.

Your recommendations are approved by the Department, and you are authorized to commence formal negotiations with the Government of Turkey for (1) a renewal of the present *modus vivendi* from February 20, 1927, to August 20, 1927, by means of an exchange of notes similar to the notes which were exchanged on February 18, 1926, and July 20, 1926; and (2) an exchange of notes or a protocol covering the points summarized under (b) of the recommendations in your telegram No. 5. The text of the provisions which might form the basis of either a protocol or an exchange of notes is being telegraphed to you separately by way of suggestion and for purposes of clarification.

The Department offers the following comments and suggestions in connection with the negotiation of a protocol or an exchange of notes:

(1) Either a protocol or an exchange of notes would be satisfactory to the Department. In addition to the precedent for a protocol referred to in your telegram there is also the Boxer protocol of 1901.²⁴ See Malloy, *Treaties*, II, 2006.

(2) Would it not be possible to include a provision for the new *modus vivendi* mentioned by Tewfik Rouschdy Bey in the protocol or exchange of notes? See paragraph (3) (c). The Department has included in the draft protocol or exchange of notes a provision along those lines for your consideration and possible use. In avoiding any uncertainty as to our commercial rights after August 20, 1927, such a provision would be of great advantage.

The Government of the United States has every sympathy with the idea of a treaty of amity with the Government of Turkey, but it wishes to give practical effect to this idea in such a form that there can be avoided the uncertainty and delay which the provisions of the Constitution of the United States regarding treaty making inevitably entail. The views of Tewfik Rouschdy Bey would in effect and substance be fully met by the proposed protocol or exchange of notes. No effort should be spared to induce him to accept an exchange of notes or a protocol in place of a treaty of amity.

KELLOGG

²⁴ Signed at Peking, Sept. 7, 1901, *Foreign Relations, 1901, Appendix (Affairs in China)*, p. 312.

711.672/552 : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

WASHINGTON, February 1, 1927—7 p. m.

5. [Paraphrase.] Department's telegram No. 4, February 1, 6 p. m. Below is the text of the provisions to be incorporated in the proposed exchange of notes or protocol: [End paraphrase.]

(A) The United States and Turkey will reestablish between themselves diplomatic and consular relations based upon the principles of International Law. Their diplomatic and consular officers shall enjoy on the basis of reciprocity in the territory of the other the treatment recognized by International Law.

(B) In the event that the American-Turkish Treaty signed at Lausanne on August 6, 1923 is not ratified during the next session of the Congress of the United States, the United States and Turkey will then proceed to the negotiation of agreements on the following matters:

Establishment and residence rights,
Commercial rights,
Consular rights,
Extradition,
Naturalization,
Claims.

(C) Pending the coming into force of the American-Turkish Treaty signed at Lausanne on August 6, 1923, or of the agreements enumerated in (B) the *status quo* shall be preserved in so far as the treatment of Turkish nationals (*ressortissants*) in the United States and American nationals (*ressortissants*) in Turkey are concerned.

(D) Pending the coming into force of the American-Turkish Treaty signed at Lausanne on August 6, 1923, or of the agreements enumerated in (B), the United States and Turkey will extend on the basis of reciprocity to agricultural and industrial products originating in or proceeding from one country to the territory of the other for consumption, transit, or reexportation, that treatment accorded the most favored nation.

The provisions of this agreement do not apply to the treatment which is accorded by the United States of America to the commerce of its dependencies, Cuba, or the Panama Canal Zone, or to the commerce between Turkey and the countries detached from the Ottoman Empire following the War of 1914, nor to the frontier traffic with a State contiguous to Turkey.

KELLOGG

711.672/553 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, February 3, 1927—11 p. m.

[Received February 3—5:43 a. m.]

6. (1) During conference today Tewfik Rouschdy Bey restated that the Government of Turkey agreed in principle to an exchange

of notes providing for a resumption of diplomatic and consular relations, the understanding being that at the next meeting drafts of notes would be submitted for discussion. On his own initiative Tewfik Rouschdy Bey raised again the question of a treaty of amity, and stressed the point that the negotiation therefor within a specified period of time should be provided for in the proposed note.

(2) Will the Department please refer to the last and next to last paragraphs of its telegram No. 1, January 23, 9 p. m., and the last sentence of paragraph 2 of its telegram No. 3, January 27. I intend to endeavor to salvage the Lausanne Treaty, but should the resumption of diplomatic relations as desired by the Department be jeopardized by efforts to reconsider the treaty, I shall adopt such means as I find necessary to this end.

I have already informed the Minister for Foreign Affairs that a treaty of amity would probably be as difficult to get ratified as the Lausanne Treaty. I shall employ every argument to induce him to accept a protocol or a note as a full substitute for such a treaty. I am convinced, however, that he will maintain tenaciously the stand he has taken on this point; and in case of absolute necessity I propose to offer instead the commencement of negotiations for a commercial convention which, of course, would amount to a renunciation of the Lausanne Treaty. As I see it, with a protocol in force and an Ambassador at his post, to submit for ratification a treaty of amity providing for the resumption of diplomatic relations once they had been resumed, would be an anomaly.

In view of these considerations, it is my opinion that if we expect the Minister for Foreign Affairs to give up the Lausanne Treaty, we must be prepared to offer him something in its place. As a possible acceptable substitute, I propose the negotiation of a commercial convention, which sooner or later must become a desirable step toward the regularization of our relations with the Government of Turkey. In addition, this should supply the Minister for Foreign Affairs with the basis which he insists is necessary to procure the authority of the Assembly to conclude a provisional commercial arrangement until a commercial treaty is ratified.

BRISTOL

711.672/555 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, February 6, 1927—8 p. m.

[Received 3:18 p. m.]

8. It is urgently recommended that the President immediately resubmit the Lausanne Treaty to the Senate for its reconsideration

even though it is understood in advance that the Senate probably would not take action upon it during the present session.

It is my belief that the resubmission of the treaty would (a) probably forestall adverse action upon it by the Grand National Assembly now in committee; (b) help salvage the treaty; (c) help me to forestall the necessity of concluding an agreement to negotiate a treaty of amity; (d) strengthen my position in the general conduct of my negotiations.

It is obvious that no statement on this subject would be [apparent omission] to the Government of Turkey until resubmission to the Senate was an accomplished fact, and even then no assurances would be given regarding ratification.

BRISTOL

711.672/556 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, February 7, 1927—6 p. m.

[Received February 7—10:20 a. m.]

9. My telegram No. 6, dated February 3, 11 p. m. Below is the text of draft note which was submitted to [by] me today.²⁵

"Article 1. The United States of America and Turkey are agreed to reestablish between themselves diplomatic and consular relations, based upon the principles of international law. They are further agreed to the appointment of Ambassadors as soon as possible. Their diplomatic and consular representatives shall enjoy on the basis of reciprocity in the territory of other the treatment recognized by international law.

"Article 2. (a) The United States of America and Turkey are agreed that, in conformity with international law and based upon the principle of complete reciprocity, commercial relations, consular relations, and establishment and residence relations of the nationals of the other party in their respective territories will be regularized by special conventions.

"(b) In the event the Turkish-American treaty, signed at Lausanne August 6, 1923, is ratified by the United States Senate during the present or the next regular session of Congress, the stipulations set forth in that treaty, together with its annexes, shall be considered as meeting the promise specified in paragraph (a), as regards the regularization of commercial, consular, and establishment and residence relations.

"(c) The United States of America and Turkey are agreed that the treaty of extradition signed at Lausanne August 6, 1923, shall, at a time mutually convenient to both Governments, be submitted for ratification. Further, that negotiations for a naturalization convention shall be undertaken within six months after the coming into effect of the consular convention and the establishment and resi-

²⁵ Quotation not paraphrased.

dence convention, referred to in paragraph (a), or the coming into effect of the Turkish-American treaty, mentioned in paragraph (b). The question of claims shall be dealt with in accordance with the terms of the notes exchanged between the Turkish and American Governments at Constantinople on December 24, 1924 [1923]; it being understood however that the provisions of those notes will come into force six months after the exchange of ratifications of the commercial convention and the convention of establishment and residence, referred to in paragraph (a) of this article, in the event that the Turkish-American treaty, mentioned in paragraph (b), is not ratified.

"Article 3. Pending the coming into effect of the commercial convention, referred to in paragraph (a) of article number [2], or of the Turkish-American treaty, mentioned in paragraph (b) of the same article, the *status quo* regarding commercial treaties between the United States and Turkey shall be preserved.

"Article 4. Pending the coming into effect of the consular convention and the convention of establishment and residence, referred to in paragraph (a) of article number 2, or of the Turkish-American treaty, mentioned in paragraph (b) of the same article, and with the said Turkish-American treaty and annexes serving as a guide, the *status quo* shall be preserved regarding the treatment and relations of Turkish nationals in the United States and of nationals of the United States in Turkey.

"Article 5. The final draft of this note shall be submitted to both Governments, etc., etc."

The Minister stated that his draft note was not yet completed, but that it would be placed in my hands not later than tomorrow evening. Our conversation, under the circumstances, was short [of?] any further developments.

BRISTOL

711.672/555 : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, February 8, 1927—8 p. m.

5 [6?]. (1) It is the understanding of the Department from your No. 8, February 6, 2 p. m., No. 6, February 3, 11 p. m., and No. 5, January 30, noon, that the present status of the negotiations between yourself and Tewfik Rouschdy Bey is as follows:

(a) The duration of the present *modus vivendi* is to be extended for an additional period of 6 months from February 20, 1927.

(b) You have reached an agreement in principle providing for a resumption of diplomatic relations by an exchange of notes.

(c) Having made substantial progress with regard to the above points, you are now negotiating with respect to the nature of the treaty relations between the two countries and as to how and when those relations will be entered into.

(2) With regard to point (c) it is the understanding of the Department that the positions of the parties to the negotiations are now as follows:

(a) It appears clear that Turkey prefers to negotiate a treaty of amity to be followed by a series of conventions. As yet, Turkey has not categorically rejected, by act or word, the treaty of August 6, although the Minister for Foreign Affairs has clearly indicated his opinion that the treaty of August 6 leaves something to be desired, and that if the Assembly should ratify it, there would be reservations and modifications, and that certain articles of it have less than two years to run. See point (3) (f) of your telegram No. 5.

(b) The view has been expressed by you that Turkey would like to get rid of the treaty of August 6 since Turkey is not now disposed in its latest treaties to give treatment as advantageous as was given to the United States in consular matters and also presumably in commercial rights. See point (5) of your telegram No. 3, Jan. 24, midnight. To assist you in opposing the desire of Turkey for a treaty of amity, you have stated that you would propose to Turkey the negotiation of a commercial convention instead of a treaty of amity, and you have recommended that the treaty of August 6 be immediately resubmitted to the United States Senate whether or not action can be taken before the adjournment of Congress on March 4.

(c) The Department has proposed that Turkey's desire for a treaty of amity be opposed by a proposal for an exchange of notes or a protocol as set forth in Department's telegram No. 5, February 1, 7 p. m. From the Department's point of view paragraph (b) of that telegram provided the ideal solution, that is, an undertaking in alternate form to resubmit the treaty of August 6 to the Senate or to negotiate a series of agreements on specified subjects.

(3) It will not be practicable for the Executive immediately to resubmit the treaty of August 6 to the Senate. Although there has been talk regarding the possibility that certain Senators who voted against the treaty could be persuaded in the future to change their positions, nevertheless, there is not the slightest proof that there has been any change. For the President, therefore, to resubmit the treaty to the Senate some three weeks after its failure to secure the necessary vote of two-thirds, without obvious explanation or pretext, might well arouse resentment in that body and lessen any chances the treaty might have at a future date. Should, however, an exchange of notes or a protocol following the line of Department's telegram No. 5 actually be concluded between the two countries in time to permit such action prior to March 4, it might then be possible for the President to take into consideration the fact as to whether it would be appropriate to resubmit the treaty to the Senate in connection with informing that body of the results of your negotiations with Turkey. In other words, the conclusion of an exchange of notes or a protocol might possibly furnish the President with a suitable

occasion for again ascertaining the Senate's views with regard to our treaty relations with Turkey. This possibility may be used by you in your conversations with Tewfik Rouschdy Bey, but discreetly and only after it has been ascertained, first, that this possibility would really be an added inducement to the acceptance by Turkey of an exchange of notes or a protocol following the line of the Department's telegram No. 5 and especially paragraph (b) thereof and, second, that without this added inducement Turkey will not accept the exchange of notes or the protocol.

(4) At present your main objective is to secure the assent of Tewfik Rouschdy Bey to an exchange of notes or protocol following the line of Department's telegram No. 5 and particularly the essential paragraph (b) thereof.

(5) You should keep in mind that the position which Turkey has heretofore taken that diplomatic relations and treaty relations are interdependent is an unusual one in international practice. As the Department pointed out in paragraph (3) (a) of its telegram No. 4, February 1, 6 p. m., the practice of this country has been to consider diplomatic relations and treaty relations as not interdependent. Presumably, the reason for the Turkish practice is the desire to obviate the possibility of any attempt to revive the capitulations or the treaties under which the capitulatory rights were enjoyed. If this is the purpose of the Government of Turkey, Turkey is protected from this possibility, so far as this country is concerned, by a provision following the line of paragraph (b) of the Department's telegram No. 5.

In your endeavors to persuade Tewfik Rouschdy Bey to agree to an exchange of notes or a protocol following the line of Department's telegram No. 5, you should be very careful to correct any possible suspicion he may entertain that the views of the Government of the United States are affected in any way by ulterior and hidden motives. The Government of the United States is now looking at its relations with the Government of Turkey not in terms of months but in terms of years. It is animated only by an earnest desire to have friendly official contact with the Government of Turkey as quickly as possible and eventually to develop through such friendly contact comprehensive treaty relations between the United States and Turkey. A great deal has been accomplished in the last few months towards a better understanding of Turkey in the United States in spite of the failure of the United States Senate to ratify the treaty of August 6. American public opinion is unquestionably being favorably impressed by the good sense apparently displayed by Turkey in the face of the Senate's action. Should Turkey endanger the full fruition of this better understanding by an insistence that

American-Turkish relations be handled according to a general rule which the Government of Turkey has found to be of advantage in dealing with certain other nations, it would be a matter of great regret.

KELLOGG

711.672/558 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase ²⁶]

ANGORA, February 10, 1927—9 p. m.

[Received February 11—9:15 a. m.]

11. My telegram No. 9, dated February 7, 6 p. m. This evening I met Tewfik Rouschdy Bey. He did not present a draft text himself, but [accepted?] in principle my draft with the suggestion that the following changes be made:

Article 1. In the first sentence change "reestablish" to read "establish". Modification recommended.

Article 2, paragraph (b). In the first sentence, beginning with the word "ratified" and ending with the word "Congress", change to read, "ratified by the United States Senate and the Grand National Assembly of Turkey on or before June 1, 1928". Add as a concluding sentence:

"It being understood that in the event the Turkish-American treaty is ratified before June 1, 1928, article 31, thereof, shall be modified to read that the nonpermanent articles of that treaty will expire on the same date as corresponding articles of the allied treaties of Lausanne."

The modifications recommended in paragraph (c) were unimportant changes in wording.

Article 3 is to be discussed and made the subject of a separate note to be signed and to go into effect concurrently with this note. The separate note would provide for the preservation of the *status quo* for 1 year from the date of signing. At the end of this term the note would automatically continue for a further period of 3 months unless in the interim the Lausanne Treaty should have been ratified, or unless by mutual agreement the note should have been modified, or unless one of the contracting parties should have been asked for a reconsideration of its provisions. The Foreign Minister desires this change because such a provision requires the approval of the Grand National Assembly, whereas the other provisions of this note do not need to be submitted to the plenary session.

²⁶ Quotations not paraphrased.

Article 4 is to be changed commencing with the thirty-ninth word of the first sentence, "article", and continuing through to complete the article

"the principles enumerated in articles 1 and 2 of this note together with the essential provisions of the Turkish-American treaty signed at Lausanne August 6, 1923, and its annexes shall [constitute?] the basis for the law [*treatment?*] which on condition of reciprocity shall be accorded nationals of Turkey in the United States and nationals of the United States in Turkey."

Modification is recommended.

In place of our article 5, which we did not discuss, I recommend the following:

"The present agreement shall become effective on the day of signature."

For the preamble of this note I recommend the following:

"Excellency: I have the honor to make the following statement of my understanding [of the] agreement reached through recent conversations at Angora on behalf of the Government of the United States and the Government of Turkey with reference to the regularization of relations between the United States and Turkey."

February 12 we shall meet to agree on the final text which I shall immediately telegraph to the Department. In the meantime it is recommended (1) that the Department approve the text as amended; (2) that I be [authorized?] to sign the French translation of this text; (3) that the Department immediately telegraph full powers for I think we should act quickly.

BRISTOL

711.672/560: Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, *February 14, 1927—6 p. m.*

7. (1) The Department approves the texts of the proposed notes as set forth in your telegram No. 12, February 12, 9 p. m.²⁷ You are authorized to conclude and sign the notes in the French language on behalf of this Government.

(2) The acceptance by the Department of the modification of article 31 of the treaty between the United States and Turkey of August 6, 1923, is conditional upon the correctness of the understanding of the Department that the Allied establishment, and commercial conventions²⁸ became effective August 6, 1924, and, there-

²⁷ Telegram not printed; but see texts of notes exchanged Feb. 17, pp. 794 ff.

²⁸ Signed July 24, 1923; deposit of ratifications by the British Empire, Italy, and Japan, Aug. 6, 1924. See League of Nations Treaty Series, vol. xxviii, pp. 161, 171.

fore, cannot be terminated before August 6, 1931, and August 6, 1929, respectively.

(3) Inasmuch as the employment of the word "article" to indicate the different parts of a note is unusual and would bring about adverse comment in the United States, you should make the suggestion that the paragraphs and subparagraphs comprising the note be indicated simply by numbers and letters, and reference thereto in the body of the note be made accordingly.

(4) In article 3 the word "nationals" should be translated in French "ressortissants."

(5) The Government of the United States would be glad if the Government of Turkey would agree, for the time being, not to give publicity to the text of the two notes exchanged. It is the desire of the Department that publicity of the texts of the notes be avoided until it reaches a decision regarding the resubmission of the treaty of August 6 and other matters connected therewith.

KELLOGG

711.672/565: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, February 16, 1927—5 p. m.

[Received February 17—6:30 a. m.]

15. Upon the receipt of the Department's telegram No. 7, February 14, 6 p. m., I immediately communicated in person to Tewfik Rouschdy Bey the request that the texts of the notes should not be made public for the present. To this he agreed. The semiofficial press this morning carried the following account:²⁹

"Having taken cognizance of the fact that the American Senate rejected the Treaty of Lausanne by an insignificant majority, it was most natural that the two parties, solicitous of their interests, should seek a common ground to save their mutual interests. The *Hakimiet-I-Milliet* states that the Constitution of the United States accords the President the right to reestablish diplomatic relations with Turkey by a simple exchange of letters and notes. It is on these grounds that the negotiations have been pursued for some time between Admiral Bristol and our Minister of Foreign Affairs.

It is pointed out that the negotiations mentioned above provide for a prolongation for 1 year of the provisional commercial treaty now in effect; the reestablishment of official relations on the basis of the Treaty of Lausanne and of international arrangements and consequently the immediate appointment of Ambassadors of both parties. At the same time a consular convention and treaties of commerce and residence are determined.

²⁹ Quotation not paraphrased.

The *Hakimiet-I-Milliet* observes that signature by the two parties on the bases mentioned above is a simple question of days and draws attention to the importance of this agreement both from a material and moral point of view."

Such a statement must obviously have been inspired by Government sources. I was not consulted beforehand regarding its publication. It is my belief, however, that this publicity does not conflict with the desire of the Department that for the time being the texts of the two notes should not be given publicity.

The notes as modified by the Department's instructions will be signed tomorrow afternoon.

BRISTOL

711.672/580, 583

*The American High Commissioner (Bristol) to the Turkish Minister for Foreign Affairs (Tewfik Rouschdy)*³⁰

[Translation ³¹]

ANGORA, February 17, 1927.

EXCELLENCY: I have the honor to make the following statement of the agreement which has resulted from the conversations that have been held at Angora on behalf of the Government of the United States of America and the Government of Turkey with reference to the regularization of relations between the United States of America and Turkey.

1. The United States of America and Turkey are agreed to establish between themselves diplomatic and consular relations, based upon the principles of international law, and to proceed to the appointment of Ambassadors as soon as possible. They are further agreed that their diplomatic and consular representatives shall enjoy, on the basis of reciprocity in the territory of the other, the treatment recognized by the general principles of public international law.

2 (a). The United States of America and Turkey are agreed to regulate, by treaties or special conventions, on the basis of the general principles of public international law and of complete reciprocity, the commercial and consular relations, as well as the conditions of establishment and residence, of the nationals of the other party, in their respective territories.

(b) In the event that the treaty signed at Lausanne August 6, 1923, by the United States of America and Turkey should be ratified

³⁰ A copy of the French text of this note was transmitted to the Department by the High Commissioner in his despatch No. 2176, Feb. 18; received Apr. 1. The translation was transmitted in despatch No. 2188, Feb. 27; received Mar. 17.

³¹ File translation revised.

on or before June 1, 1928, the provisions of that treaty, together with its annexes, shall be considered as meeting the requirements specified in subparagraph (a) of this paragraph, as regards the regularization of commercial and consular relations, and conditions of establishment and residence. It is understood that in the event the Turkish-American treaty should be ratified on or before June 1, 1928, article 31, thereof, shall be modified at the time of its ratification in the following sense: the articles of the said treaty which have a temporary character shall expire on the same date as the corresponding provisions of the treaties and conventions signed by Turkey and the Allies at Lausanne, July 24, 1923.

(c) The United States of America and Turkey are agreed that the treaty of extradition signed at Lausanne, August 6, 1923, shall, at a time mutually convenient to them, be submitted to the competent authorities of their respective Governments for ratification. Further, that negotiations for a naturalization convention shall be undertaken within six months after the coming into effect of the consular convention and the convention of establishment and residence referred to in subparagraph (a) of this paragraph, or the coming into effect of the Turkish-American treaty mentioned in subparagraph (b). The question of claims shall be dealt with in accordance with the provisions of the notes exchanged between the American and Turkish Governments at Constantinople on December 24, 1923; it being understood that the provisions of those notes will come into force six months after the exchange of ratifications of the commercial convention and the convention of establishment and residence referred to in subparagraph (a), in the event that the Turkish-American treaty, mentioned in subparagraph (b), is not ratified.

3. Pending the coming into effect of the consular convention and the convention of establishment and residence referred to in subparagraph (a) of paragraph (2), or the coming into effect of the Turkish-American treaty mentioned in subparagraph (b), the principles enumerated in paragraph (1) and (2) of this note, together with the essential provisions of the Turkish-American treaty signed at Lausanne August 6, 1923, and its annexes, shall constitute the basis for the treatment, which, on condition of reciprocity, shall be accorded the nationals of the United States of America in the territory of Turkey and the nationals of Turkey in the territory of the United States of America.

4. The present agreement shall become effective on the day of signature.

I should be glad to have your confirmation of the accord thus reached.

Accept [etc.]

MARK L. BRISTOL

711.872/587

*The Turkish Minister for Foreign Affairs (Tewfik Rouschdy) to the American High Commissioner (Bristol)*⁵²

[Translation ⁵³]

ANGORA, February 17, 1927.

MR. REPRESENTATIVE: I have the honor to make the following statement of the agreement which has resulted from the conversations that have been held at Angora on behalf of the Government of Turkey and the Government of the United States of America with reference to the regularization of relations between Turkey and the United States of America.

1. Turkey and the United States of America are agreed to establish between themselves diplomatic and consular relations, based upon the principles of international law, and to proceed to the appointment of Ambassadors as soon as possible. They are further agreed that their diplomatic and consular representatives shall enjoy, on the basis of reciprocity in the territory of the other, the treatment recognized by the general principles of public international law.

2 (a). Turkey and the United States of America are agreed to regulate, by treaties or special conventions, on the basis of the general principles of public international law and of complete reciprocity, the commercial and consular relations, as well as the conditions of establishment and residence, of the nationals of the other party, in their respective territories.

(b) In the event the treaty signed at Lausanne August 6, 1923, by Turkey and the United States of America should be ratified on or before June 1, 1928, the provisions of that treaty, together with its annexes, shall be considered as meeting the requirements specified in subparagraph (a) of this paragraph, as regards the regularization of commercial and consular relations, and conditions of establishment and residence. It is understood that in the event the Turkish-American treaty should be ratified on or before June 1, 1928, article 31, thereof, shall be modified at the time of its ratification in the following sense: the articles of the said treaty which have a temporary character shall expire on the same date as the corresponding provisions of the treaties and conventions signed by Turkey and the Allies at Lausanne, July 24, 1923.

(c) Turkey and the United States of America are agreed that the treaty of extradition signed at Lausanne, August 6, 1923, shall, at a

⁵² The signed French text of this note was transmitted to the Department by the High Commissioner in his despatch No. 2232, Apr. 1; received Apr. 21. A copy of the French text had been transmitted in despatch No. 2176, Feb. 18; received Apr. 1 (file No. 711.872/583).

⁵³ File translation revised.

time mutually convenient to them, be submitted to the competent authorities of their respective Governments for ratification. Further, that negotiations for a naturalization convention shall be undertaken within six months after the coming into effect of the consular convention and the convention of establishment and residence referred to in subparagraph (a) of this paragraph, or the coming into effect of the Turkish-American treaty mentioned in subparagraph (b). The question of claims shall be dealt with in accordance with the provisions of the notes exchanged between the Turkish and American Governments at Constantinople on December 24, 1923; it being understood that the provisions of those notes will come into force six months after the exchange of ratifications of the commercial convention and the convention of establishment and residence referred to in subparagraph (a), in the event that the Turkish-American treaty, mentioned in subparagraph (b), is not ratified.

3. Pending the coming into effect of the consular convention and the convention of establishment and residence referred to in subparagraph (a) of paragraph (2), or the coming into effect of the Turkish-American treaty mentioned in subparagraph (b), the principles enumerated in paragraphs (1) and (2) of this note, together with the essential provisions of the Turkish-American treaty signed at Lausanne August 6, 1923, and its annexes, shall constitute the basis for the treatment, which, on condition of reciprocity, shall be accorded the nationals of Turkey in the territory of the United States of America and the nationals of the United States of America in the territory of Turkey.

4. The present agreement shall become effective on the day of signature.

I should be glad to have your confirmation of the accord thus reached.

Accept [etc.]

Dr. T. ROUSCHDY

711.872/580, 588

*The American High Commissioner (Bristol) to the Turkish Minister for Foreign Affairs (Tewfik Rouschdy)*²⁴

[Translation ²⁵]

ANGORA, February 17, 1927.

EXCELLENCY: I have the honor to make the following statement of the agreement which has resulted from the conversations that have been held at Angora on behalf of the Government of the United States of America and the Government of Turkey with reference to

²⁴ A copy of the French text of this note was transmitted to the Department by the High Commissioner in his despatch No. 2176, Feb. 18; received Apr. 1. The translation was transmitted in despatch No. 2188, Feb. 27; received Mar. 17.

²⁵ File translation revised.

the treatment which shall be accorded to the commerce of Turkey by the United States of America and to the commerce of the United States of America by Turkey.

Pending the coming into effect of the commercial convention referred to in subparagraph (a) of paragraph (2), of the notes exchanged today concerning the relations between the United States of America and Turkey, or the coming into effect of the Turkish-American treaty signed at Lausanne August 6, 1923, the *status quo* resulting from the exchange of notes of July 20, 1926, regarding commercial relations between the United States of America and Turkey, shall be preserved for a period of one year, dating from February 20, 1927. At the expiration of this period the *status quo* shall automatically continue for a further term of three months, unless in the meantime the provisions of this note shall have been modified by mutual agreement; or unless either of the two contracting parties shall have asked for a revision of its provisions.

I should be glad to have your confirmation of the accord thus reached.

Accept [etc.]

MARK L. BRISTOL

711.672/587

The Turkish Minister for Foreign Affairs (Tewfik Rouschdy) to the American High Commissioner (Bristol) ²⁵

[Translation ²⁷]

ANGORA, February 17, 1927.

MR. REPRESENTATIVE: I have the honor to make the following statement of the agreement which has resulted from the conversations that have been held at Angora on behalf of the Government of Turkey and the Government of the United States of America with reference to the treatment which shall be accorded to the commerce of the United States of America by Turkey and to the commerce of Turkey by the United States of America.

Pending the coming into effect of the commercial convention referred to in subparagraph (a) of paragraph (2), of the notes exchanged today concerning the relations between Turkey and the United States of America, or the coming into effect of the Turkish-American treaty signed at Lausanne August 6, 1923, the *status quo* resulting from the exchange of notes dated July 20, 1926, regarding commercial relations between Turkey and the United States of America, shall be preserved for a period of one year, dating from February 20, 1927. At the expiration of this period the *status quo*

²⁵ The signed French text of this note was transmitted to the Department by the High Commissioner in his despatch No. 2232, Apr. 1; received Apr. 21.

²⁷ File translation revised.

shall automatically continue for a further term of three months, unless in the meantime the provisions of this note shall have been modified by mutual agreement; or unless either of the two contracting parties shall have asked for a revision of its provisions.

I should be glad to have your confirmation of the accord thus reached.

Accept [etc.]

Dr. T. ROUSCHDY

711.672/566: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

ANGORA, February 17, 1927—9 p. m.

[Received February 18—1:05 a. m.]

16. This afternoon the notes were signed and exchanged. They are now in effect. Tewfik Rouschdy Bey asked me for an exchange of additional notes to which I agreed, of which the following is a translation: ⁸⁸

"I have the honor to acknowledge the receipt of your note of February 17th regarding the arrangements which have resulted from the conversations that have been held at Angora between the Government of the United States of America and the Turkish Government with respect to the regularization of relations between the United States of America and Turkey and to confirm the tenor thereof.

I desire to add that, having already the full authority of my Government to sign and to exchange notes of this date containing identic declarations, I shall present to you my full powers in due form as soon as possible.

Please accept, et cetera."

I was surprised to receive the request for a confirmation of my authority to sign. Tewfik Rouschdy Bey explained that, since the notes engaged the Governments, he had deemed it necessary to request full powers and also to give full powers. I request that full powers be sent me by mail as quickly as possible.

We agreed upon the following communiqué to the press: ⁸⁸

"The negotiations which have taken place during the past few days between His Excellency Tewfik Rouschdy Bey, Minister for Foreign Affairs, and His Excellency Admiral Bristol, Diplomatic Representative of the United States, with a view to regularizing the political and commercial relations between the two countries have been concluded this evening through an exchange of notes of this subject."

Foreign Minister agreed not to make public for the present the texts of the notes. He said, however, that in case of an inter-

⁸⁸ Quotation not paraphrased.

pellation he might be obliged to give them to the Assembly. I said that I would request the Department to inform me of the earliest date when the texts can be made public. As I am taking up certain questions affecting American interests, will the Department please inform me? Authority is requested for me to return to Constantinople at my discretion.

BRISTOL

711.672/566 : Telegram

The Acting Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, February 21, 1927—11 a. m.

12. Your telegram No. 16, February 17, 9 p. m., reporting signature exchange of notes:

(1) Full powers will go forward in pouch leaving Washington on February 25. They are dated February 1, and were signed by the President on February 19.

(2) Please confirm the understanding of the Department that no provision of the notes as signed and exchanged will require the approval of the Assembly before going into effect.

(3) You will be informed by the Department regarding the earliest date when the texts of the notes can be made public.

(4) On February 18 the following statement was given to the press:⁴⁰

"As a result of conversations between Admiral Bristol and the Turkish Minister of Foreign Affairs at Angora, an understanding has been reached between the two Governments which provides for the preservation of the *status quo* pending a decision on the question of treaty relations and which contemplates the resumption of official relations between the two countries."

(5) Department would be glad if you could remain at Angora for the time being for the purpose of taking up with the Government of Turkey such matters of importance as may arise before the Congress adjourns on March 4.

GREW

711.672/572 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

ANGORA, February 23, 1927—10 a. m.

[Received February 25—10:27 p. m.]

22. Your 12, February 21, 11 a. m., received only yesterday. I have definitely confirmed my original understanding that notes

⁴⁰ Quotation not paraphrased.

exchanged do not have to be acted upon by Assembly. I furnished Foreign Minister with copy of communiqué given out by the Department. I shall be glad to remain until Congress adjourns.

BRISTOL

711.672/572 : Telegram

*The Acting Secretary of State to the High Commissioner in Turkey
(Bristol)*

WASHINGTON, February 26, 1927—5 p. m.

14. Your 22, February 23, 10 a. m. You are authorized to return to Constantinople at your discretion.⁴¹

GREW

711.672/573 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

ANGORA, March 2, 1927—11 a. m.

[Received 1:28 p. m.]

25. The Turkish Government contemplates favorable action in the very near future on request to open more American schools in the interior and also to permit four doctors to practice in Turkey.⁴² I urgently recommend that I be authorized to concur with the Turkish Government in the release of texts of notes as soon as possible since continued delay is creating unfavorable impression in official circles.

BRISTOL

711.672/578 : Telegram

*The Acting Secretary of State to the High Commissioner in Turkey
(Bristol)*

WASHINGTON, March 9, 1927—noon.

23. Department's 22, March 3, 11 a. m.,⁴³ and your 25, March 2, 11 a. m. from Angora. Department agrees to release of texts of notes exchanged on February 17. You should arrange with Turkish Government a date for release far enough ahead to enable you to telegraph Department, thereby insuring simultaneous action in this country and in Turkey.

GREW

⁴¹ In his telegram No. 23, Feb. 28 (not printed), the High Commissioner informed the Department that he would leave for Constantinople on March 4 (file No. 123 B 773.145).

⁴² See post, pp. 804 ff.

⁴³ Not printed; it stated that the question of date and circumstances of publication of notes was receiving Department's careful consideration.

711.672/577 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

CONSTANTINOPLE, March 11, 1927—3 p. m.

[Received 3:15 p. m.]

16. Your 23, March 9, noon. Turkish Government agrees to March 15th as date for release of texts of notes exchanged February 17th and will give them to morning press of that date. Foreign Office sees no necessity for giving publicity to letters of confirmation likewise exchanged on February 17th and considers it might even be better not to release them since full powers referred to therein have not been exchanged; consequently only first note on general relations and the second on commercial relations will be released. I fully concur in this suggestion and will make no further representations to the Turkish Government unless otherwise instructed.

BRISTOL

123 B 773/147c : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

WASHINGTON, March 19, 1927—2 p. m.

25. The President having particularly in mind your future career in the Navy directs me to inform you that he does not feel you should be asked to remain in Turkey after June 1st next. While the loss to this Government inevitable in the termination of your present mission is keenly appreciated by the President and by myself we realize that to prolong your stay in Turkey beyond June 1st might interfere with the plans of the Navy Department. It is my earnest desire to cooperate with the Navy Department to the fullest possible extent to the end that your services in Turkey may receive the recognition they so clearly deserve.

In view of the foregoing you may proceed to Washington at your convenience. Your transportation and that of Mrs. Bristol, as well as the transportation of your household effects, to the United States will of course be defrayed by this Department in accordance with the travel regulations.

It is understood that the Secretary of the Navy will issue you appropriate orders as Commander of the Naval Detachment in the Eastern Mediterranean.

KELLOGG

123 G 861/294a : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

WASHINGTON, May 9, 1927—6 p. m.

43. The President desires to appoint the Honorable Joseph C. Grew, now Under Secretary of State, as Ambassador to Turkey. A biographical sketch will be found in the *Department Register*.

Make inquiry of the Government of Turkey as to the acceptability of Mr. Grew and telegraph Department.

KELLOGG

123 G 861/206 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

CONSTANTINOPLE, May 19, 1927—10 a. m.

[Received 11:53 a. m.]

36. The following is a translation from the French of a telegram just received direct from Tewfik Rouschdy [Bey]:

"I have the honor to inform Your Excellency that my Government is giving with pleasure its *agrément* to the designation of the Honorable Joseph C. Grew as Ambassador of the United States of America at Angora."

This in reply to my personal request made May 16th in Angora.

[Paraphrase.] The Government of Turkey evidently gave this information to its official news agency for publication, since an announcement of Mr. Grew's selection appeared yesterday in the local papers.

Am I authorized officially to announce the appointment of Mr. Grew? [End paraphrase.]

BRISTOL

123 G 861/298A : Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

WASHINGTON, May 21, 1927—11 a. m.

49. Your 36, May 19, 10 a. m. Official announcement of Mr. Grew's appointment made last evening. You may confirm it.⁴⁴

KELLOGG

⁴⁴ Ambassador Grew presented his letter of credence to the President of Turkey on October 12 (file No. 123 G 861/312).

123 B 773/153 : Telegram

The Chargé in Turkey (Crosby) to the Secretary of State

CONSTANTINOPLE, May 24, 1927—3 p. m.

[Received May 24—1:25 p. m.]

39. Bristol left today. Have assumed charge.

CROSBY

701.6711/190 : Telegram

The Chargé in Turkey (Crosby) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, May 25, 1927—3 p. m.

[Received 5:13 p. m.]

40. I have just returned from an informal call on Nusret Bey.⁴⁵ Under instructions from Angora he asked me to telegraph the Department requesting *agrément* of Mouhtar Bey as the Ambassador of Turkey in the United States. Mouhtar Bey has had an extended diplomatic service. He has served as Foreign Minister in the Cabinet of Rao Bey, Minister in Athens, and Ambassador in Russia; and at the present time he is a Deputy from Constantinople. I regret that he is not known to me personally.

CROSBY

701.6711/190 : Telegram

The Secretary of State to the Chargé in Turkey (Crosby)

[Paraphrase]

WASHINGTON, May 27, 1927—1 p. m.

52. Your telegram No. 40, May 25, 3 p. m. Inform the Government of Turkey that the Government of the United States is entirely agreeable to the appointment of Mouhtar Bey as Ambassador of Turkey in the United States.⁴⁶

KELLOGG

GOOD OFFICES OF THE AMERICAN EMBASSY IN SUPPORT OF THE
REOPENING OF AMERICAN SCHOOLS IN TURKEY⁴⁷

367.1164/101 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, November 5, 1927—noon.

[Received 7:45 p. m.]

101. At the request of the American Board of Foreign Missions I informally supported its application to be permitted to reopen cer-

⁴⁵ Delegate at Constantinople of the Turkish Foreign Minister.

⁴⁶ The President received the Turkish Ambassador on December 5, 1927 (file No. 701.6711/215a).

⁴⁷ For previous correspondence concerning efforts on behalf of American schools in Turkey. see *Foreign Relations*, 1924, vol. II, pp. 730 ff.

tain American schools in Anatolia, notably at Aintab, Caesarea, and Sivas, which were recognized before October 30, 1914, and particularly at Marash and Talas for which staffs are now ready and waiting. The Foreign Minister will take the matter up with the Minister of Public Instruction. He believes that as regards certain places permission will be given, but that it is contrary to the policy of the Government of Turkey to permit foreign schools in certain other places. Should the Government of Turkey refuse permission to reopen any or all of these schools, is it the desire of the Department that I acquiesce tacitly or shall I press the question on the basis of the letter of Ismet Pasha of August 4, 1923,⁴⁸ and the notes exchanged on February 17, 1927?⁴⁹ I am not sure that it would be wise to make a formal issue of the question of the schools at the present time. I believe it might be preferable for the time being to accept the decision which the Government of Turkey may make, but nevertheless to present any comment which the Department may desire me to make regarding our interpretation of the binding character of the agreement of February 1927. The Cabinet will probably take up the school question on November 9. Will the Department please instruct me.

GREW

367.1164/101: Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, November 8, 1927—noon.

93. Embassy's telegram No. 101, November 5, noon. You should not make any formal issue regarding the opening of schools in Anatolia or discuss the question with the Turks from the viewpoint of principle or in general. There is, however, no objection to your using informally with the Turks any arguments, juridical as well as practical, which recommend themselves to you, in support of the reopening of one or more particular schools. In this connection you would, of course, make the appropriate reference to the notes exchanged on February 17, 1927, Ismet Pasha's letter on institutions, and the second of the three points contained in Lausanne subcommittee report, May 18, 1923.⁵⁰ (See the French edition of the Allied Conference Minutes, 2nd series, I, p. 108, and procès-verbal of signature of the American-Turkish treaty.⁵¹)

KELLOGG

⁴⁸ *Foreign Relations*, 1923, vol. II, p. 1141.

⁴⁹ *Ibid.*, pp. 794 and 798.

⁵⁰ *Foreign Relations*, 1923, vol. II, p. 1148.

⁵¹ See minutes of the meeting held at Lausanne, August 6, 1923, *ibid.*, p. 1144.

367.1164/104

The Ambassador in Turkey (Grew) to the Secretary of State

No. 60

CONSTANTINOPLE, November 23, 1927.

[Received December 8.]

SIR: I have the honor to inform the Department that American scholastic institutions in Turkey began their operations for the 1927-1928 school year with an attendance which exceeds that of any previous year. As regards collegiate institutions the American College in Smyrna also shows an increase in registration, but both Robert and Constantinople College show a slight decrease. In the case of Robert College this is due to an increase in the standard of the entrance examinations as the Faculty believe the college is getting too large. The figures for Constantinople College are early statistics and the Dean, Miss Burns, believes that final figures in course of preparation will show at least as high an enrollment as last year. Aside from the fact that the increase in attendance indicates augmenting interest in education, it will interest the Department to know that many relatives of members of the Turkish Cabinet and of Deputies are enregistered in American schools and colleges, from which can be drawn the inference that these Government officials believe a better education can be obtained in American institutions than in corresponding Turkish establishments. This is an interesting commentary on the situation when one takes into consideration the strong nationalistic tendencies of the members of the present Turkish regime.

The statistics for the present school year also show another interesting trend viz.; the increasing number of Moslem Turks who are enrolled as against Greek, Armenian and Jewish Turks and as against foreigners, such as Bulgarians, Russians, Albanians, Serbs, etc. Such statistics as are available are transmitted to the Department herewith.⁵²

In my telegram No. 101 of November 5, 10 A. M. [noon], I informed the Department that I had informally supported the application of the American Board to re-open certain schools in Anatolia. A copy of the *Aide-Memoire* on this subject, which I left with Tewfik Rouschdy Bey is enclosed herewith. I am now in receipt of a personal note from the Minister for Foreign Affairs (a copy of which, together with a translation is also enclosed) in which he avoids a definite reply and links the issue with the question of selling American School properties in Anatolia to the Turkish Government. This was a surprise to me for in my interviews with Tewfik Rouschdy Bey he had never broached such a proposition. Nor is there in the files of the Embassy any record indicating that the Turkish authorities desired to acquire American school properties in Anatolia except at

⁵² Not printed.

Mersifoun as reported in this Embassy's despatch No. 2122 of December 7, 1926.^{52a} I immediately placed myself in touch with Mr. Goodsell, who has taken over Mr. Fowle's work at the Bible House since Mr. Fowle's departure for America on leave. Mr. Goodsell is now searching the American Board files, but to the best of his recollection only three inquiries along these lines have been made by the Turks, as follows:

1. Mersifoun as mentioned above.
2. The Boy's school at Sivas.
3. The School property at Harpoot as distinguished from the Hospital property.

Mr. Goodsell will report definitely to me after completing his search and after discussing the question with his lawyers. When he has gathered all the available data, he will undoubtedly send his lawyer to Angora to try and ascertain from the Ministry of Public Instruction just what properties the Turks desire to purchase. Should they prove to be unused properties in the Eastern Vilayets or elsewhere, it is possible, in Mr. Goodsell's opinion, that something might be arranged. On the other hand, should the Ministry desire to acquire all American school property in Anatolia a serious problem would be raised.

In this Embassy's despatch No. 2122, December 7, 1926, it was reported that the French Catholic Schools in Anatolia were on the point of being sold to the Turkish Government. The Secretary of this Embassy in Angora has been informed by Father Jenarphanian that the schools in Caesarea, Tokat, Amassia and Sivas have been sold to the Government and also their land in Angora, the school itself having been burned.

The Counselor of the French Embassy informed a member of my staff that it was his understanding that the Jesuits had sold all of their property in Anatolia and not merely the properties mentioned above. Their properties were actually being used by various branches of the Turkish administration, but no rent was being paid. After fruitless negotiations covering a period of over a year the French threatened to carry the case to the Turkish-French Mixed Arbitral Tribunal, for it was perfectly obvious that in all justice, the Turks should either restore the properties to the Jesuits, or pay rent, or purchase them. This threat produced the desired results and shortly afterwards an agreement was reached and the properties purchased outright. I have not been able to ascertain how much the Turks paid, but the Counselor of the French Embassy stated that he understood the Jesuits had been satisfied with the purchase price.

^{52a}Not printed.

French schools, other than those of the Jesuits, which are in operation in Turkey are in Constantinople, Smyrna, Konia, and Chanak. This last named has just been closed temporarily by the authorities "because of administrative difficulties" which M. Brugère did not seem to care to elucidate.

The Department will be interested to know that M. Brugère stated explicitly that since the ratification of the Treaty of Lausanne, efforts had been made to secure permission to re-open certain French schools in Turkey and that in making these efforts the French Embassy had invoked the terms of Ismet Pasha's letter of July 24th, 1923, addressed to the Allied Delegates at Lausanne.⁵³ In spite of these representations of the French Embassy, the Turkish Government has not given the desired permission.

I am informed by the Italian Embassy that aside from the usual petty vexations, Italian schools in Turkey are not being molested. Their schools are in Adrianople, San Stefano, Makri-Keuy, Constantinople and Smyrna. An Italian school in Adalia has just been closed as there were only two scholars for four teachers, one of whom was a Turk, for whom the authorities demanded a large salary. The Italians considered it uneconomical to continue to run the school!

As regards German schools in Turkey, I am informed by Herr von Moltke, the Counselor of the German Embassy, that it is the intention of the Germans to terminate all of their school activity in this country. I have been unable to ascertain whether or not this intention has been put into effect.

The British have only three schools in Turkey, all of which are in Constantinople. They are experiencing no unusual difficulties in operating. The British Embassy informs me that it has had no occasion to invoke the terms of Ismet Pasha's letter of July 24, 1923, as no British schools in Turkey have been closed.

I shall not fail to inform the Department of future developments in connection with the schools of the American Board in Turkey. It will be noted by the Department that my *Aide Memoire* was so worded that the Turkish Government could have complied with the request of the American Board, as set forth therein, by permitting the re-opening only of the two schools at Talas and Marash, leaving its decision regarding the others until a later date. I presume that the Government intends to use this question as leverage in order to facilitate its purchase of such American school property in Turkey as it may wish to acquire. In any case, even should no satisfaction be forthcoming from the Government in regard to the re-opening of the schools, I should not be inclined to do more than to repeat the informal representations already made. To demand the re-opening of the schools as a right, on the basis of the exchange of notes of

⁵³ *Foreign Relations*, 1923, vol. II, p. 1142.

February 17, 1927,⁵⁴ and Ismet Pasha's letter of August 4, 1923,⁵⁵ would probably defeat its own purpose, for should the Turkish Government accede to such a demand unwillingly and with bad grace, it could effectively nullify the permit by surrounding the schools with such administrative restrictions as to render their further activities useless. The experience of the French Embassy would seem to indicate that stronger representations would in any case be fruitless, should the Turkish Government decide definitely against the reopening of the schools.

I have [etc.]

JOSEPH C. GREW

[Enclosure 1]

The American Embassy to the Turkish Foreign Office

AIDE MEMOIRE

1. As a result of the Great War certain American schools functioning in Turkey were temporarily closed. Until 1925 no effort was made to reopen these schools, but on May 1, 1925, the American Board applied to the Minister of Education for permission to reopen certain of these institutions, without favorable result.

2. Following the resumption of Diplomatic relations between Turkey and the United States a new application was made in March 1927. The Embassy is informed that the Minister of Education referred this application to the Educational Council which expressed the opinion that the reopening of the American schools in question would be useful. The Embassy is further informed that the Minister of Education subsequently consulted the Ministry of Foreign Affairs which replied, under date of May 28, 1927, (numbers 11341/76) that there is no obstacle or political danger in the reopening of American schools. However, in spite of these favorable replies, the permission to reopen these schools has not yet been received.

3. These schools have been in existence and have enjoyed official recognition since 1886. The language of instruction being both Turkish and English, and naturally in the Lycee classes importance being given to French, by means of commercial courses which can be added to the program these schools could serve the purpose of real vocational and commercial schools. There is also in existence in some of these schools apparatus, equipment and other facilities necessary for practical industrial and agricultural branches. With the guidance and support of the Ministry of Education it is certain that these schools can contribute much to the educational and cultural development of the communities in which they are situated.

⁵⁴ *Ante*, pp. 794 and 796.

⁵⁵ *Foreign Relations*, 1923, vol. II, p. 1141.

4. It is hoped that permission to reopen these schools which were in existence and officially recognized prior to October 30, 1914, may now be given. They are as follows:

| | | |
|--------------|------------------------|---------|
| Sivas | American Girls' School | Lycee |
| Sivas | American Boys' School | College |
| Marash | American Girls' School | Lycee |
| Ghazi Aintab | American Girls' School | Lycee |
| Ghazi Aintab | American Boys' School | College |
| Talas | American Girls' School | Lycee |
| Talas | American Boys' School | Lycee |
| Caesarea | Kindergarten | |

At the present moment the American Board is particularly anxious to reopen the Boys' School at Talas and the Girls' School at Marash as they have the necessary American staff with which to resume work at these two points.

ANGORA, November 3, 1927.

[Enclosure 2—Translation ⁵⁰]

The Turkish Minister for Foreign Affairs (Tewfik Rouschdy) to the American Ambassador (Grew)

ANGORA, November 13, 1927.

MY DEAR AMBASSADOR: I have the honor to inform Your Excellency that after the receipt of Your Excellency's *aide-mémoire* of the 3d instant, I conferred with my colleague of Public Instruction.

I think that it would be expedient at this time both to take up the question of the reopening of the American school in case the Ministry of Public Instruction should determine it is possible and useful for the country that the school resume its operations, and to negotiate, as we have contemplated, the particulars of the purchase by the said Department of the property of the American schools in Anatolia, and that these institutions designate a representative to confer with the Ministry of Public Instruction.

I avail myself [etc.]

DR. T. ROUSCHDY

367.1164/107

The Ambassador in Turkey (Grew) to the Secretary of State

No. 101

CONSTANTINOPLE, December 30, 1927.

[Received January 24, 1928.]

SIR: In my despatch No. 60 of November 23, 1927, regarding the re-opening of American schools in Anatolia, I had the honor to inform the Department that the Minister for Foreign Affairs, in his letter to me of November 13, had proposed negotiations with the American Board for the purchase by the Ministry of Public In-

⁵⁰ File translation revised.

struction of American school property in Anatolia prior to considering the question of the re-opening of the schools. I now have the honor to report that, in accordance with the request of Mr. Fred Field Goodsell, Field Secretary of the Turkish Mission of the American Board, I wrote to the Minister for Foreign Affairs on December 2, requesting that a specific date be designated for the desired conference between the representative of the American Board and the Ministry of Public Instruction in Angora. No reply to my letter, a copy of which is enclosed herewith, has as yet been received.

In this connection, a conference, which was held recently between Shukri Bey, a representative of the Bible House, and Avny Bey, of the Council of Education of the Ministry of Public Instruction, is significant. I am informed that Avny Bey stated that his Minister, Nedjati Bey, regarded the Bible House as hardly more than a Christian missionary propaganda institution and that the Minister desired to have no dealings with it in any shape or form. He said that while the Bible House could continue to print its publications, as the Turkish law allows, the Ministry of Public Instruction would have nothing to do with them in regard to the American schools. Avny Bey observed that if such institutions were authorized to function by the Treaty of Lausanne, they would be allowed to re-open, otherwise not.

In relation to this general subject, I am informed that certain of the deputies in the National Assembly, chiefly journalists, have conceived the plan of opening two girls' schools in Turkey to compete with foreign secondary schools in this country, one to be established in Angora and one in Stamboul. While they expect to receive assistance from the Government, these schools will be denominated "private schools" in order to avoid the legal restrictions on compensations of instructors so that teachers of the calibre of those employed in foreign-controlled institutions may be engaged. It is said that the following deputies, all journalists, are the prime movers in this project: Nejmeddin Sadik Bey, Falih Rifki Bey, Nafi Atouf Bey, Rouschen Eshref Bey, Hakki Tarik Bey, Mahmoud Bey and Yacoub Kadri Bey.

I am further advised that Nouredin Bey, General Director of Primary Instruction in the Ministry of Public Instruction, recently stated to my informant that it would be a blessing both for the Turks and American educators in this country if the latter could co-operate with the Ministry of Public Instruction in its desire to introduce technical rather than cultural and religious subjects in their schools. He said he had gone so far as to write to the American School in Mersifoun along this line and had even drawn up a circular indicative of the character of technical instruction approved by the Ministry. This course of study included, among other subjects, the following:

millinery, sewing, hygiene and home economics, care of infants, nursing, conservation of fruits and vegetables, carpentry and rug-weaving. I expect to discuss these various matters with Mr. Goodsell, who is now absent, on his return to Constantinople and shall report further to the Department in due course.

I have [etc.]

JOSEPH C. GREW

[Enclosure]

The American Ambassador (Grew) to the Turkish Minister for Foreign Affairs (Tewfik Rouschdy)

CONSTANTINOPLE, December 2, 1927.

MY DEAR MINISTER: In reply to your letter of November 13, 1927, I have the honor to inform Your Excellency that the American Board is prepared to send a representative to Angora to discuss with the Ministry of Public Instruction the question of re-opening certain American schools in Turkey and the sale to the Turkish Government of certain school properties in Anatolia. If the Ministry of Public Instruction will kindly designate a specific date for the interview, arrangements will be made for the representative to be in Angora on the day indicated.

The records of the American Board reveal that inquiries have been made on behalf of the Turkish Government looking to the acquisition by purchase of school properties in Mersifoun, Sivas and Kharput only. Since the American Board in its application of March 1927 did not ask for a permit to re-open schools in these three places, it is hoped that the question of granting permits may be treated separately from the question of the sale of property. The American Board hopes therefore that permits will be issued as requested in its application and especially at Talas and Marash where the personnel is ready and waiting to re-open the schools.

I venture to express my own as well as the Board's appreciation of Your Excellency's kind co-operation both in arranging an early date for the meeting suggested by the Ministry of Public Instruction and in obtaining sympathetic consideration by the Ministry of the application of the American Board of March last.⁵⁷

I am [etc.]

JOSEPH C. GREW

⁵⁷In telegram No. 25, Feb. 26, 1928 (not printed), the Embassy reported that the Minister of Public Instruction had authorized the addition of a technical section to the American school at Mersifoun and the reopening of the boys' school at Sivas (file No. 367.1164/108).

URUGUAY

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND URUGUAY

711.332/1

The Minister in Uruguay (Grant-Smith) to the Secretary of State

No. 287

MONTEVIDEO, September 6, 1926.

[Received September 30.]

SIR: With reference to the Department's instruction No. 54 of August 6, 1926,¹ I have the honor to report that in conversation this afternoon with Sr. Saralegui, Minister for Foreign Affairs a. i., referring to the study I had been making recently of the treaty making powers of the Uruguayan Government, I said casually that it was surprising that no Treaty of Commerce and Consular Rights existed between our respective Governments. He replied that Uruguay now had no treaties of commerce with any country and, on my mentioning those with France and England, he said that they had all been denounced after the War. To my inquiry as to how Uruguay got on, he replied that her commercial relations with other countries were regulated entirely by International Law on the basis of the most-favored-nation treatment and pointed out that the Uruguayan Tariff was the same for all.

I observed that it was precisely the policy of unconditional most-favored-nation treatment that the United States was trying to forward; that we had recently negotiated a treaty with Germany on that basis² and that he would readily understand that Germany would not have entered into an agreement which would not have been advantageous to her interests, to which he readily assented. I mentioned that I had been interested to learn by the press telegrams that a similar treaty had just been concluded between the United States and Hungary³ and went on to say that I was convinced that in the adoption of the policy of the "wide open door" small nations would find the best guarantee for their independence. That, for example, in case a neighbor or other strong power should at any

¹ Not printed; this instruction was substantially the same, *mutatis mutandis*, as instruction No. 905, Aug. 23, 1923, to the Minister in Colombia, *Foreign Relations*, 1923, vol. II, p. 1.

² See *ibid.*, 1923, vol. II, pp. 22 ff.

³ See *ibid.*, 1923, vol. II, pp. 241 ff.

time manoeuvre a country into a difficult position, it might be difficult to avoid the concession of special privileges, especially might that come about in the condition in which Uruguay at present found herself, without any commercial treaties. On the other hand, such a possibility would be avoided if she had a treaty containing broad provisions such as those contained in our treaty with Germany.

I observed that the old spirit of monopoly was still abroad; that the desire to canalize commerce to their own exclusive advantage was still entertained by some nations. I said that in that connection, I had been especially interested by a case in the colonial history of this part of the world. He would recall that during that period, the Spanish had held a monopoly for the commerce with South America, had canalized it over the Isthmus and down the Pacific Coast to Peru, whence it had had to cross the Andes and so down to Buenos Aires. Legitimate trade could then be carried on only by that circuitous and costly route, whereas all traffic direct by sea with the River Plate was treated as contraband.

Sr. Saralegui evinced interest and inquired why I did not submit a draft of such an agreement, to which I replied that first I would prefer that he should examine our treaty with Germany, which I would have translated into Spanish, when he could see just what it contained, a suggestion which he appeared to receive with satisfaction. I added that we had no such treaties with nations in this part of the world and that I was not unnaturally desirous that such a treaty should be negotiated during my incumbency of this Legation.

It will be my endeavor to induce Sr. Saralegui to repeat his suggestion in writing and although he may do so there would be no prospect of substantial progress with negotiations being made until after the November elections. It will be, however, advantageous if we can bring them about before the return from Europe of Dr. Blanco because Sr. Saralegui, being the permanent Undersecretary, will presumably stop on at the Ministry of Foreign Affairs whatever the result of the elections may be and would be likely to take more interest in such a treaty if the negotiations are initialed by him. Should I be fortunate enough to receive a written request I shall advise the Department by telegraph and would be glad if a draft would be forwarded to me with as little delay as possible.

I have [etc.]

U. GRANT-SMITH

711.332/1 : Telegram

The Secretary of State to the Minister in Uruguay (Grant-Smith)

[Paraphrase]

WASHINGTON, October 11, 1926—4 p. m.

24. With reference to Legation's despatch No. 287, September 6, you may say in your discretion to the Acting Foreign Minister that

you had reported your conversation to the Department and that you had been authorized to submit draft of treaty if such a course would now be acceptable. Should the Department receive a telegram from you stating that you had received an affirmative reply, whether oral or written, it will endeavor to forward draft of treaty by next pouch.

KELLOGG

711.332/3

The Minister in Uruguay (Grant-Smith) to the Secretary of State

No. 315

MONTEVIDEO, October 19, 1926.

[Received November 9.]

SIR: In reply to your telegraphic instruction No. 24 of October 11, 4 p. m., 1926, and in explanation of my reply of today's date, No. 57,⁴ I have the honor to make report of the circumstances which have led me to the conclusion that it would be preferable to postpone, for the moment, any attempt to initiate formal negotiations for the conclusion of a Treaty of Commerce and Consular Rights between the United States and Uruguay.

When I wrote my despatch of September 6th, No. 287, Dr. Blanco had not resigned the portfolio of Foreign Affairs, which he did by telegraph on the 24th September, thus leaving Sr. Saralegui as *locum tenens* until, at least, after the Presidential election which will take place next month, and probably until the induction of the new President on March first next. There is, in consequence, no occasion for haste on Sr. Saralegui's account as then seemed advisable.

As is usual just previous to the opening of the most active season for the sale of cattle, an attack has been launched, by both the cattle raisers and the Press, against the foreign Packers, Messrs. Swift and Co., and Armour & Co., which this year has proven to be sharper than heretofore. The foreign beef "Trust" is violently and very generally, although I believe not justly, denounced. It is highly improbable, therefore, that the Government would feel disposed at this juncture to enter into negotiations which, if consummated, might deprive it of a possible means of dealing summarily with the so called Trust. This will doubtless be found an obstacle even after the agitation has been temporarily calmed, for the threat of confiscation is a weapon which will not be readily relinquished.

It is, consequently, all the more necessary that the ground should be prepared with care and with patience. Suspicion of suggestions made by foreigners is general among Uruguayans and especially if emanating from the United States, a distrust which, as the Department is aware, is encouraged by our rivals in these markets. It is for this reason that I am endeavoring to excite interest on the part,

⁴ No. 57 not printed.

not only of the Minister for Foreign Affairs ad interim, but likewise on that of persons of influence in both parties, first by directing attention to the exposed position, economically, in which this country now finds itself and then, through inference, to the advantages which would accrue to Uruguay through the conclusion of an unconditional-most-favored-nation agreement with the United States.

However absurd it may seem, the shout of "Yankee Imperialism" is sure to be raised immediately it is known that a treaty of any nature with the United States is in contemplation. It is all the more necessary, therefore, that as many leaders as possible of both parties should become well disposed towards the idea in advance. Moreover, the Colorado majority in the Chamber of Representatives is very narrow and cannot always be counted on by the President.

The elections for President and for the National Council of Administration will be held on the last Sunday of November next, and the result is naturally in doubt, more so, in fact, than for many years past. Whatever measure one party initiates, the other opposes. It is obvious, therefore, that our ends would best be served by confining ourselves to the creation of a favorable atmosphere until the elections make it clear of which party the next President will be.

In a conversation this afternoon with Dr. Baltasar Brum, he said that during his term as President he had denounced the commercial treaties between Uruguay and various European countries because of the most-favored-nation clause which each contained! He had offered to renew them by inserting a provision excepting the countries of the Western Hemisphere from the operation of that provision but the proposal had been rejected. A similar offer to Japan had met with a like fate. He mentioned the Uruguayan treaty with Brazil with special reference to the exchange of cattle and said that Uruguay was not willing that European countries should be admitted automatically to the enjoyment of those privileges. Doubtless, when we come to negotiation they will insist on the inclusion of some reservations with regard to trade with Brazil, Argentina and Paraguay similar to that relating to Cuba in our treaty with Germany.

Dr. Brum referred to the treaties containing the unconditional-most-favored-nation provision as "antiquated". To my observation that the policy of the United States Government was to base its foreign commercial relations on the most-favored-nation provision, which offered admission, on a basis of equality, to a market of over one hundred million, he rejoined that the United States had not been so keen on the "open-door" before it became an exporting nation for finished products. Although Dr. Brum is no longer in office his influence is great. The opinions he expressed would appeal strongly to Uruguayans in general.

I would be appreciative of any suggestions as to arguments which might aid towards convincing them of the benefits which would accrue to Uruguay through the adoption of such a treaty as we desire.

I have [etc.]

U. GRANT-SMITH

711.332/3

The Secretary of State to the Minister in Uruguay (Grant-Smith)

No. 93

WASHINGTON, June 21, 1927.

SIR: By your despatch No. 315 of October 19, 1926, you reported against the advisability of initiating negotiations for the conclusion of a Treaty of Friendship, Commerce and Consular Rights between the United States and Uruguay at that time. In the despatch you asked for suggestions as to arguments which might aid in demonstrating the benefits which would accrue to Uruguay through the adoption of such a treaty as that which it is proposed to negotiate.

The advantages which would accrue to Uruguay are, in general, those which flow from the policy of equality of treatment of foreign countries adopted by the United States. The enclosed copy of a memorandum prepared for the use of the American members of the International Economic Conference held at Geneva last month points out the advantages of the principle of equal treatment.⁵ It is believed that the memorandum will be of assistance to you in presenting the question to Uruguayan officials. As you are aware, the outstanding benefit of the unconditional most favored nation stipulation is the assurance that the products of no country will have an advantage in a particular market, in this case the United States, over the products of the country which would enjoy the benefit of the stipulation, in this case Uruguay. Should Uruguay receive the promise of the United States that the latter will accord its products unconditional most favored nation treatment, no other country could obtain favorable rates in the American customs tariff that would not forthwith be extended to similar products from Uruguay.

You stated that doubtless Uruguay would insist on the inclusion of reservations with regard to trade with Brazil, Argentina, and Paraguay similar to that relating to Cuba in the Treaty of the United States with Germany.

In the Treaty of Friendship, Commerce and Consular Rights, concluded by the United States with Estonia in 1925, exceptions from the most favored nation treatment were made in respect of commercial benefits accorded by Estonia to Finland, Latvia, Lithuania and Russia (Treaty Series No. 736, Article VII), and in the

⁵ Memorandum not printed; but see "International Conference for the Abolition of Import and Export Prohibitions and Restrictions, Geneva, October 17-November 8, 1927," vol. I, p. 246.

Treaty signed by the United States with Salvador in 1926, exceptions were made in respect of treatment accorded by Salvador to other Central American countries. (*Congressional Record*, May 28, 1926, page 10241, Article VII). This Government has therefore recognized exceptions of regional groups.

While the Department is not in a position to indicate at this time whether this Government would agree in a treaty with Uruguay to exceptions in respect of the trade of the three countries mentioned in your despatch with Uruguay, there is no objection to your intimating to Uruguayan officials that suggestions in regard to such exceptions as Uruguay would consider necessary to propose would be given sympathetic consideration by this Government.

In connection with Dr. Brum's characterization of treaties containing the unconditional most favored nation provision as "antiquated," you are, of course, aware that in recent years this policy has been adopted and put into practice by almost all commercial nations, including nations which formerly adhered to a policy of special reciprocity treaties and particular advantages. The International Economic Conference, which has recently adjourned at Geneva, and at which practically all countries were represented, adopted resolutions recommending the general use of the unconditional most favored nation clause.

You stated that Dr. Brum referred to diplomatic intervention by foreign Powers on the basis of treaty rights in questions of a contractual nature between the Uruguayan Government and foreigners. The Treaty of 1923 between the United States and Germany does not contain any provision relating to contracts of either Government with nationals of the other country. The only reference in that Treaty to diplomatic interposition is in Article XXI, which recognizes the right of consular officers to address the authorities within their consular districts for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise, and provides that upon failure of the proper authorities to grant redress or accord protection in such instances, interposition through the diplomatic channel may be justified. These are also the only provisions in regard to diplomatic interposition which this Government would propose for inclusion in a Treaty with Uruguay. These provisions are but a recognition of powers inherent in the consular and diplomatic offices independently of treaty. When rights of the nationals of a country, arising under contracts between such nationals and the Government of another country, have been infringed by the latter, they may, of course, properly be espoused by the Government of such nationals, even in the absence of a Treaty. The draft which this Government would submit would, of course, contain the provision in the fourth paragraph of Article I of the

Treaty with Germany that property shall not be taken without due process of law and without payment of just compensation. This Government has long taken the position that appropriation of property contrary to these two principles furnishes grounds for diplomatic intervention under general principles of international law whether or not a treaty containing such stipulations is in force between the United States and the country making the appropriation. It is not believed that the Government of Uruguay would adopt a different attitude in instances in which a foreign Government might appropriate property belonging to Uruguayan nationals.

In view of the foregoing statements it would appear that in a large measure the opposition to the negotiation of a treaty on the part of Uruguay is unjustified. You may call to the attention of the proper Uruguayan officials so much of the substance of this instruction and the enclosure as in your discretion you deem wise and ascertain informally the attitude of that Government toward undertaking negotiations at this time. The Department would be pleased to learn whether in your opinion the time is now propitious for initiating the negotiations.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

711.332/4 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

MONTEVIDEO, July 29, 1927—11 a. m.

[Received July 29—11 a. m.]

51. Your instruction number 93 of 21st ultimo. The Minister for Foreign Affairs said yesterday that Government would be pleased to examine a draft treaty of friendship, commerce, and consular rights with the United States. The Under Secretary reiterated his expression of interest made previously.

GRANT-SMITH

711.332/4 : Telegram

The Secretary of State to the Minister in Uruguay (Grant-Smith)

WASHINGTON, September 14, 1927—3 p. m.

15. Your No. 51, July 29, 11 A. M. This Government is glad to learn that Uruguayan Government is prepared to consider draft of treaty. Draft is in preparation and will be forwarded as soon as completed.*

KELLOGG

*No draft treaty appears to have been sent. On Sept. 21, 1928, the Minister in Uruguay stated that there appeared to be no real likelihood that Uruguay would enter into such a treaty, chiefly because Uruguay was opposed to treaties containing the most-favored-nation clause. (File No. 711.332/6.)

VENEZUELA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND VENEZUELA

611.2181/27a

The Acting Secretary of State to the Minister in Venezuela (Cook)

No. 1053

WASHINGTON, August 17, 1926.

SIR: This Government has, as you are aware, entered upon the policy of negotiating with other countries general treaties of friendship, commerce and consular rights, of which the central principle in respect of commerce is an unconditional most-favored-nation clause governing customs and related matters.¹ This policy was inaugurated pursuant to the principles underlying Section 317 of the Tariff Act of 1922;² it seeks assurances that equality of treatment for American commerce will be maintained in all countries. Besides the provisions relating to trade and commerce these treaties include provisions relating to rights of nationals of each country in the other country, protection of property and rights and immunities of consuls. This Government now desires to enter into such a treaty with Venezuela.

The first treaty to become effective expressing the present policy of this Government was the Treaty of Friendship, Commerce and Consular Rights with Germany, signed December 8, 1923;³ ratifications of which were exchanged October 14, 1925. Similar treaties have been signed by the United States with Hungary, Esthonia and Salvador, of which the one with Esthonia has been brought into force by exchange of ratifications.

Treaties containing the unconditional most-favored-nation clause were signed with Turkey on August 6, 1923, and with Panama on July 28, 1926.⁴ Several others are in process of negotiation. *Modi vivendi*, based upon the same principle, entered into with the following countries are in force—Brazil, Czechoslovakia, Dominican Republic, Finland, Greece, Guatemala, Latvia, Lithuania, Nicaragua, Poland, (including Danzig), Rumania and Turkey. A similar agree-

¹ See *Foreign Relations*, 1923, vol. I, pp. 121 ff.

² 42 Stat. 853, 944.

³ For treaties and *modi vivendi* referred to in this instruction and not cited therein, see footnotes to similar instruction, No. 1162, Aug. 21, 1926, to the Ambassador in Brazil, *Foreign Relations*, 1926, vol. I, p. 569.

⁴ The treaty with Panama, however, does not contain the unconditional most-favored-nation clause.

ment entered into with Haiti on July 8, 1926, becomes by its terms operative October 1, 1926.

Two copies of the treaty of December 8, 1923, with Germany are enclosed.⁴ You are requested, unless you perceive objection, to inquire whether it would be agreeable to the Government of Venezuela to proceed to the negotiation with the United States of a similar treaty. A special draft of treaty will, of course, be prepared for presentation to Venezuela if this proposal is acceptable to the Venezuelan Government. That certain departures from the text of the German treaty should be made is obvious. For instance, Articles XIV and XV would not be necessary in a treaty with Venezuela in view of the existence of the Convention Facilitating the Work of Traveling Salesmen signed by Venezuela and the United States on July 3, 1919,⁵ ratifications of which were exchanged on August 18, 1920.

It may be useful for you to bear in mind that in adopting the unconditional in place of the conditional most-favored-nation clause the United States has brought its commercial policy into accord with that prevailing among important commercial countries. It would be gratifying if, among its early treaties embodying this principle, the United States could celebrate a general commercial treaty with Venezuela. The lack of a general commercial treaty with Venezuela since the treaty of August 27, 1860⁶ was terminated on October 22, 1870, is a matter of regret to this Government and it hopes that a comprehensive modern agreement may now be entered into. It is glad to note, in the Legation's despatch No. 263, of December 7, 1922,⁷ the statement that the Minister of Foreign Affairs was at that time perfectly willing to enter into negotiations for a general commercial treaty. You should keep in mind in this connection, however, that a most-favored-nation clause with a condition such as that contained in Article IX of the Treaty of 1860 would not be acceptable.

Though the Department, in proposing a treaty with Venezuela, is influenced chiefly by its policy of concluding with other countries generally treaties containing the unconditional most-favored-nation clause, you are nevertheless desired to use especial diligence in seeking a favorable response from the Venezuelan Government and so forestalling any efforts that other countries may be planning to make for the purpose of interposing in South America arrangements based upon special privilege—a policy wholly antagonistic to the policy of equality of treatment which the United States is undertaking

⁴ *Foreign Relations*, 1923, vol. II, p. 29.

⁵ *Ibid.*, 1919, vol. I, p. 45, footnote 47.

⁶ Malloy, *Treaties*, 1776-1909, vol. II, p. 1845.

⁷ Not printed.

to promote. You may recall in this connection that in 1923 this Government renounced the preferential customs treatment which certain American products had been receiving in Brazil and requested instead a pledge of equal footing with other countries in the Brazilian market.⁸

For your strictly confidential information and guidance the Department has been informed of a movement on the part of Spain to seek from the countries of Latin America special commercial concessions in return for certain advantages to be accorded to their commerce in Spain. In this connection see the Department's circular instruction dated April 19, 1926.⁹

For your further confidential information the Department has received from the Honorable Felix Córdova Dávila, Resident Commissioner of Porto Rico, a letter to him dated April 30, 1926, from Mr. Manuel V. Domeneck, National Counsellor of the Chamber of Commerce of the United States for Porto Rico, on the subject of Venezuelan discrimination against goods from Porto Rico through the levy of a thirty per centum additional customs duty. A copy of the letter is enclosed.⁹ You will recall in this connection the Department's instruction No. 763 of November 18, 1922, the Legation's despatch No. 263 of December 7, 1922,¹⁰ and other correspondence.

It then seemed probable that the removal of the additional duties applicable to shipments from Porto Rico and West Indian colonial areas would operate to the advantage chiefly of Trinidad and Curacao and might injure rather than help continental American trade with Venezuela. It is felt, however, that goods of the United States mainland and of the island of Porto Rico ought to be alike regarded as American goods, regardless of the port from which they are shipped to Venezuela, and that discrimination against such goods, as by means of a thirty per centum additional duty when they are shipped from San Juan, would seem to be actionable under the provisions of Section 317 of the Tariff Act of 1922, which authorizes the President to levy additional duties upon imports from countries that discriminate against the United States.

The Department believes that, if Venezuela should become party to a treaty with the United States containing language such as that of Article VII of the American-German Treaty, the thirty per centum additional duties would become inoperative in respect of Porto Rico and the Virgin Islands of the United States. Since Venezuela appears to be primarily interested in discouraging imports from Trinidad and Curacao, the decree of 1882 might, it would seem, be left in effect except as to the territory to which the treaty would be applicable.

⁸ See *Foreign Relations*, 1923, vol. I, pp. 453 ff.

⁹ Not printed.

¹⁰ Neither printed.

Thus it seems possible, through the proposed treaty, not only to carry out, in respect of Venezuela, the general commercial policy of this Government and to obtain for Porto Rico the desired equality of treatment for its products entering Venezuela, but also to accomplish these things without causing Venezuela to alter its attitude toward importation from Trinidad and Curacao.

The Department is of the opinion that goods transshipped at a foreign port without passing through the foreign customs retain their character so far as the country of origin is concerned. Hence, under the most-favored-nation clause, it would neither relinquish the claim of its own goods for most-favored-nation treatment when shipped indirectly nor ask for foreign goods such treatment when merely transshipped at San Juan, St. John or any other of its ports.

The Department either has transmitted or expects at an early date to transmit instructions similar to the present instruction to the American missions in the other South American capitals except Panama, with which as stated a treaty has been signed, and Ecuador, the political régime now functioning in which is not recognized by the United States.

I am [etc.]

LELAND HARRISON

711.312/1

The Minister in Venezuela (Cook) to the Secretary of State

No. 1354

CARACAS, July 7, 1927.

[Received July 22.]

SIR: I have the honor to refer to the Department's Instruction No. 1099 of June 21, 1927,¹¹ instructing me to report in regard to the attitude of the Venezuelan Government toward undertaking negotiations at this time for the conclusion of a Treaty of Friendship, Commerce and Consular Rights between the United States and Venezuela.

On several occasions I have discussed informally this matter with the Minister for Foreign Affairs, who now informs me that after a careful study his Government does not consider a treaty embodying the unconditional most-favored-nation principle as suited to a country of Venezuela's limited commercial and economic development. He stated that it was believed to be the better policy for Venezuela to be free to make concessions in return for those granted her.

Another objection which he urged was that the proposed treaty contained provisions in regard to consular immunities and functions, to the confirmation of professional titles, and to commerce in transit and coast wise trade, which he said are contrary to Venezuelan legislation and tradition. Moreover, treaties based upon this legislation, and also

¹¹ Not printed.

embodying the most favored nation principle, have been entered into with other powers and therefore the conclusion of the proposed treaty with the United States would mean the repeal of much of Venezuela's fundamental legislation as well as changing the nature of her treaties now in force.

The Minister further stated that his Government felt that as their present political and commercial relations with the United States were so satisfactory there was no need of a treaty at this time. To this I remarked that Venezuela might conclude commercial treaties with other countries which would be antagonistic to equal treatment for the United States. To this he replied that nothing of that kind would occur, that Venezuela would enter into no treaty which would discriminate against our interests.

The question of the removal of the thirty per cent. additional duty now levied upon imports from Porto Rico, I have not taken up with the Venezuelan authorities, for the reason that the Department in its Instruction No. 1053 of August 17, 1926, stated that it believed, "that, if Venezuela should become party to a treaty with the United States containing language such as that of Article VII of the American-German Treaty, the thirty per centum additional duties would become inoperative in respect of Porto Rico and the Virgin Islands of the United States."

I have no doubt as to the sincerity of the Venezuelan Government's statement of its reasons for its opposition to embodying in its treaties the unconditional most favored nation principle. It is going to be a matter of convincing the Government that its opposition is not well founded.

Should the Department desire me to pursue this matter further I request that if possible I be furnished with studies showing the advantage which the unconditional most favored nation principle has for countries in a stage of economic and industrial development similar to that of Venezuela.¹²

I have [etc.]

WILLIS C. COOK

¹² There were no further negotiations for a treaty with Venezuela.

YEMEN

DISINCLINATION OF THE UNITED STATES TO ENTER INTO TREATY RELATIONS WITH THE IMAM OF YEMEN

711.90 j 2/-

The Vice Consul at Aden (Park) to the Secretary of State

[Extract]

No. 207

ADEN, *March 15, 1927.*

[Received April 6.]

SIR: I have the honor to inform the Department that the Imam of Yemen, Mohamed Yehia bin Mohamed, Hamid-ud-Din, Amir Al Moumenin, Mutawakkil Al Allah, has forwarded to this Consulate, through the unofficial intermediary of the Honorable Charles R. Crane, former American Minister to China, who recently visited Sanaa in a personal capacity, a rough draft in Arabic of a treaty of friendship and commerce which the Imam verbally stated he would like to serve as the nucleus of an agreement. An English translation of the Imam's tentative draft is appended hereto for the Department's information and possible consideration for future action.

I have [etc.]

J. LODER PARK

[Enclosure]

*Translation of Draft Treaty of Recognition of the Government of
Yemen by the United States, Providing for Friendship and Freedom
of Commerce*

Article 1. Recognition by the Government of the United States of the complete independence of the King of Yemen, El Imam, Mohamed Yehia bin Mohamed, Hamid-ud-Din, Amir Al Moumenin, Mutawakkil Al Allah, and his Government, and non-interference in the internal and political affairs of the Government of the Imam.

Article 2. The establishment of friendship and business relations, these depending to a great extent upon the acceptance of Article 1.

Article 3. This treaty to become effective from the date it is signed by both countries, and when the signed copies are received, both parties to the agreement will be free to authorize their nationals to travel and start business in the Yemen and in the United States, in strict conformity with the existing local laws.

Article 4. This treaty to be valid and effective for a period of ten years, and renewable by the mutual consent of both contracting parties upon the expiration of the above-named period.

Article 5. This treaty to be written in both languages, i. e., Arabic and English, and the Imam's Government to be governed by the Arabic translation in all cases of reference.

711.9012/-

The Secretary of State to the Vice Consul at Aden (Park)

WASHINGTON, May 20, 1927.

SIR: The Department acknowledges the receipt of your despatches Nos. 207 and 209 of March 15 and 23, 1927,¹ transmitting and commenting on a proposal of the Imam Yehia of Yemen for the conclusion of a treaty of friendship and commerce between Yemen and the United States. It has given careful consideration to your discussion of the political situation in southwestern Arabia in its bearing on this proposal and has noted with interest and approval the friendly character of the informal relations which you have already established with the Imam in connection with the endeavor of Mr. Conny Houlberg of the Houlberg-Kidde Corporation of New York to negotiate certain commercial contracts with him.

In reply, you are informed that, while the Department approves your recent correspondence with the Imam and desires that your office continue to maintain friendly relations of an informal nature with him, it is not disposed at this time to proceed to the conclusion of formal treaty relations with Yemen.

For your confidential information it may be stated that, although this Government recognizes the renunciation of Turkish sovereignty in the detached Arab provinces of the former Ottoman Empire and has concluded or has under consideration agreements with respect to those portions thereof placed under French and British mandate, it is not yet prepared to accord formal recognition in the manner suggested by the Imam of Yemen to the native states which have been established in the Arabian Peninsula since the World War. The unsettled political situation and the resulting uncertainty as to the permanency of the political entities so far established as well as the unimportance of American interests may be mentioned as amongst the more obvious reasons which have led the Department to this position.

It is desired, therefore, that your reply to the Imam Yehia's treaty proposal be informal, courteous and, for the present, final. You

¹No. 209 not printed.

should state that you have not failed to bring his esteemed communication to the attention of your Government and that, acting under the Department's instructions, you are most happy to convey its cordial appreciation of his expression of friendship and good-will toward the United States and the American people. You should add that your Government shares the hope which he was good enough to express that the commercial relations between the United States and Yemen and, in particular, the activities of the American merchants at the present time interested in trading in Yemen may increase and prosper. And you should conclude by stating that your Government, while highly appreciating and cordially reciprocating the friendly sentiments which prompted his offer, does not consider the present time as appropriate or opportune for entering into negotiations with a view to the conclusion of formal treaty relations with Yemen.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

YUGOSLAVIA

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND YUGOSLAVIA

711.60 h 2/a : Telegram

The Secretary of State to the Minister in the Kingdom of the Serbs, Croats and Slovenes (Prince)

WASHINGTON, August 7, 1926—3 p. m.

16. Department's No. 543, January 8, 1925.¹ Legation's No. 2577, February 14, 1925.¹

This Government would be glad now to enter into negotiation of a treaty of friendship, commerce and consular rights with Yugoslavia. Ascertain and cable whether Government of Yugoslavia is now favorable towards entering into such negotiations to supersede the treaty of commerce and navigation and the consular convention each dated October 14, 1881.² If agreeable to the Government of Yugoslavia to enter into negotiations, draft and instructions will be sent. If negotiations desired through Legation at Belgrade Department has no objection.

As to commercial provisions the principal of the draft will be unconditional most-favored-nation treatment.

The draft will include also provisions relating to rights of nationals of each country in the other, protection of property and rights and immunities of consuls. It will be similar to treaty between the United States and Hungary signed June 24, 1925,³ which is similar to treaty of December 8, 1923, between the United States and Germany (treaty series No. 725).⁴

KELLOGG

711.60 h 2/1 : Telegram

The Minister in the Kingdom of the Serbs, Croats and Slovenes (Prince) to the Secretary of State

BELGRADE, September 1, 1926—noon.

[Received 1:20 p. m.]

27. Department's 16, August 7, 3 p. m. Yugoslav Government accepts proposition to negotiate treaties of friendship, commerce

¹ Not printed.

² Malloy, *Treaties*, 1776-1909, vol. II, pp. 1613, 1618.

³ *Foreign Relations*, 1925, vol. II, p. 341.

⁴ *Ibid.*, 1923, vol. II, p. 29.

and navigation and consular rights with the United States. They also inquire whether United States will agree to negotiate conventions covering legal rights, judgments, nationality, extradition of criminals, American inheritance rights. Foreign Office offers to furnish drafts of the proposed conventions. Foreign Minister informs me he would prefer to negotiate treaties himself here rather than through his Minister at Washington.

PRINCE

711.60 h 2/1

The Secretary of State to the Minister in the Kingdom of the Serbs, Croats and Slovenes (Prince)

No. 64

WASHINGTON, March 23, 1927.

SIR: By your telegram No. 27 of September 1, 1926, noon, replying to the Department's telegram No. 16 of August 7, 1926, 3 p. m., you reported that the Government of the Serbs, Croats and Slovenes accepted the proposal of this Government to enter into the negotiation of a Treaty of Friendship, Commerce and Consular Rights, and inquired at the same time whether this Government would agree to negotiate conventions covering legal rights, judgments, nationality, extradition and American inheritance rights.

There is enclosed herewith a draft of a treaty of friendship, commerce and consular rights for submission to the Government of the Serbs, Croats and Slovenes through your Legation. An additional copy is also enclosed for your Legation.

The following statement is designed to make clear the position of this Government concerning the general features of the treaty, and respecting the various provisions thereof.

The Treaty is designed to promote friendly intercourse between the peoples of the United States and the Kingdom of the Serbs, Croats and Slovenes, through provisions advantageous to both. It may be said with entire candor that this treaty embodies no attempt whatever to attain by sharp bargaining undue advantages over a friendly State. The draft contains in certain articles provisions which in their practical operation ought to be deemed of special advantage to a foreign contracting party such as the Kingdom of the Serbs, Croats and Slovenes. These advantages are incorporated in the treaty because they are deemed to promote justice as between the peoples of friendly States. In a word, through the present draft, it is sought to lay the foundation for a comprehensive arrangement responsive to the modern and exacting requirements of maritime States. To that end, the several articles are expressed in terms which definitely and clearly set forth what is desired. It is sought by this means to avoid the danger of conflicting interpretations. The terms and phrases used are not always those which have been employed

in treaties of the United States. Those utilized will, it is hoped, add to the clearness of the document.

The first six articles deal generally with the rights of the nationals of the one party residing in the territories of the other. The attempt is made to give the subjects of the Kingdom of the Serbs, Croats and Slovenes in the United States or the American in the Kingdom of the Serbs, Croats and Slovenes all of those privileges which can reasonably be accorded the resident alien.

Article I provides for the rights of travel and residence and of commercial, professional and religious activity and for the protection of the persons and property.

In phraseology and scope, the first paragraph of Article I differs somewhat from the corresponding provisions as contained in treaties of the United States concluded before the Treaty of 1923 with Germany. The effort has been made to set forth comprehensively, yet tersely, the privileges for which provision is made. It will be noted that the most favored nation treatment provided in this paragraph refers to acts "hereafter" according privileges to other States. The second paragraph contains a guarantee of most favored nation treatment in respect of copyright.

In the next to the last paragraph of Article I unusual steps are taken to provide for the protection and security of the person and property of the resident alien, in accordance with the requirements of international law. It is believed that it may prove highly useful to acknowledge that the test of the propriety of the treatment due the resident alien is that accorded by International law, rather than by the standards fixed by the State of residence in dealing with its own nationals. The provision for the international law test has been inserted in the standard treaty to operate as a safeguard in those countries whose treatment of their own nationals is arbitrary and unjust. This paragraph also provides that the property of the resident alien is not to be taken without due process of law and without payment of just compensation. It is hoped that these provisions will be warmly appreciated by the Government of the Serbs, Croats and Slovenes.

In the last paragraph of Article I is embodied a reservation made by the Senate of the United States as a condition of giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights signed by the United States and Germany on December 8, 1923. From the point of view of this Government such a provision is necessary.

Article II extends to non-resident aliens the same rights of recovery under Workmen's Compensation Acts and other like statutes that are enjoyed by nationals. This Article, suggested by the treaty of Febru-

ary 25, 1913, between the United States and Italy,⁵ somewhat elaborates the provisions of Article I of that treaty. The purpose of the elaboration has been twofold—first, to cover so-called Workmen's Compensation Acts, where benefits accrue by reason of the fact of injury, rather than by reason of negligence attributable to an employer; secondly, to give the non-resident the same benefit of privileges under such Acts as are enjoyed by nationals.

Article III precludes the visit and search of the dwellings, factories, etc. of the non-resident alien except as prescribed by the law for nationals. This is not an uncommon provision. It is contained in substance in Article II of the treaty of February 21, 1911, between the United States and Japan.⁶

Article IV makes provision for the disposition of property by inheritance or devise. The arrangement in the first paragraph enables, for example, an heir or devisee in the Kingdom of the Serbs, Croats and Slovenes to take title to American lands owned by a relative who died in the United States, and to have the privilege of disposing of those lands within a reasonable period of time when the local law (as of some State of the United States) does not permit such alien to retain title. This paragraph reproduces Article I of the Convention of March 2, 1899 of the United States with Great Britain.⁷ The second paragraph of Article IV grants full rights in respect of the ownership and transmission of personal property. The provisions of the Article conform to the traditional policy of the United States, as shown by Article V of the Treaty of 1850 between the United States and the Swiss Confederation,⁸ and Article III of the Treaty of Friendship and General Relations, concluded by the United States and Spain on July 3, 1902.⁹

Article V guarantees the right of freedom of worship. It enlarges slightly the not uncommon provisions relative to religious practices. It is reasonable in its scope and desired by the United States. Obviously, no practices contrary to public morals are to be permitted under the guise of religious activity. It has seemed wise to recognize the importance of local mortuary and sanitary regulations.

Article VI imposes compulsory military service, in certain contingencies, upon a resident alien in the event of war. This is an important belligerent right which you should endeavor to incorporate in the treaty. The result of the late war revealed the fact that should the United States be a belligerent in a conflict where it had but a single enemy, the neutral alien residents within its territory would

⁵ *Foreign Relations*, 1913, p. 611.

⁶ *Ibid.*, 1911, p. 315.

⁷ Malloy, *Treaties*, 1776-1909, vol. I, p. 774.

⁸ Miller, *Treaties*, vol. 5, p. 845.

⁹ *Foreign Relations*, 1903, p. 721.

probably embrace a large adult male population capable of military service and reasonably subject thereto under the conditions here proposed. As the right to exact military service in this Article is conditioned upon three things (1) the permanent residence of the individual within the territory of the State drafting him; (2) his having formally declared an intention to acquire its nationality; and (3) his not having departed from the territory of the belligerent party within a specified time after declaration of war, it is believed that the necessary safeguards are established. Even though the Government of the Serbs, Croats and Slovenes should desire complete exemption, as was provided in certain earlier treaties of the United States, and should object to the Article here proposed, earnest effort should be made to procure acceptance of this Article.

Article VII makes full provision for the enjoyment of the most-favored-nation clause in its unconditional form, applying it to persons, vessels and cargoes, and to articles, the growth, produce or manufacture of the contracting parties. It will be seen that the most-favored-nation clause is applied to duties on imports and exports and to other charges or restrictions or prohibitions on goods imported and exported.

The following provisions in Article VII of the enclosed draft are not contained in the treaties of Friendship, Commerce and Consular Rights of the United States with Germany, Estonia and Hungary:¹⁰ (1) the provisions made for the protection of indirect trade by the words "from whatever place arriving" in the second paragraph and by the sentence "In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments" in the fourth paragraph, (2) the provisions in the fourth paragraph in regard to licenses for importations and exportations and for equitable treatment in respect of rations or quotas of restricted goods, and (3) the words "by treaty, law, decree, regulation, practice or otherwise" in the fifth paragraph. In the view of this Government the provisions of Article VII of the treaties of the United States with Germany, Hungary, and Estonia, when correctly construed embrace the subjects to which these additional provisions relate. The changes introduced into the Article are designed, therefore, to clarify not alter the provisions as contained in the treaties already concluded by the United States. The following observations in regard to the new provisions may be helpful to you:

(1) This Government has experienced difficulty in obtaining complete most favored nation treatment for American products in certain countries in which importations of such products are drawn largely from warehouses in third States. The present draft is designed to

¹⁰ For texts of treaties with Estonia and Hungary, see *Foreign Relations*, 1925, vol. II, pp. 70 and 341.

clarify the situation by expressly excluding any distinction between the treatment accorded such shipments and that accorded direct shipments.

(2) Experience has shown that American commerce has been discriminated against in certain countries under systems of licenses, or of rations or quotas regulating the importation and exportation of merchandise. The fourth paragraph of Article VII is designed to make clear that equitable treatment is to be accorded under such systems. Provisions similar to those in the first part of the paragraph are contained in the International Convention for the Simplification of Customs Formalities, signed at Geneva November 3, 1923,¹¹ and provisions similar to those in the second part of the paragraph are contained in the second paragraph of exchanges of notes between the United States and several countries (Poland, February 10, 1925, Treaty Series No. 727; Finland, May 2, 1925, Treaty Series No. 715; Estonia, March 2, 1925, Treaty Series No. 722; Rumania, February 26, 1926, Treaty Series No. 733; Latvia, February 1, 1926, Treaty Series No. 740; Lithuania, December 23, 1925, Treaty Series No. 742; Haiti, July 8, 1926, Treaty Series No. 746).¹²

(3) The additional phrase "by treaty, law, decree, regulation, practice or otherwise" inserted in the fifth paragraph is not intended to vary the meaning of the paragraph which is contained as paragraph four of Article VII in the treaties between the United States and Germany, Estonia and Hungary. It has been deemed wise, however, to clarify the meaning of the paragraph by the addition of this phrase.

The revised draft of Article VII as contained in the enclosed draft will be regarded as the standard form for use in treaties of friendship, commerce and consular rights which the United States may undertake henceforth to negotiate. Consequently, the Government of the Serbs, Croats and Slovenes need not feel that it will be discriminated against in accepting the provisions to which attention is herein called although they are not contained in the treaties of Friendship, Commerce and Consular Rights of the United States now in effect.

In the last paragraph there is an important reservation with respect to the commerce between the United States and Cuba, and to the commerce of the United States with its dependencies, embracing the Panama Canal Zone, under existing or future laws. These reservations are essential. You will recall that the arrangements between the United States and Cuba under the treaty of December 11, 1902,¹³

¹¹ League of Nations Treaty Series, vol. xxx, p. 371.

¹² The exchanges of notes between the United States and Estonia, Finland, Lithuania, and Poland are printed in *Foreign Relations*, 1925, vol. II, pp. 66-69, 94-98, 500-503, and 692-696; between the United States and Haiti, Latvia, and Rumania, in *ibid.*, 1926, vol. II, pp. 403-406, 500-502, and 898-901.

¹³ *Ibid.*, 1903, p. 875.

are of a peculiar nature. The special relationship political and geographical between the United States and Cuba necessitates the reservation concerning the commerce with that country. The last sentence of paragraph one is of great importance, on account of the reservations set forth therein.

Article VIII relates to internal taxes, transit dues, charges in respect of warehousing and other facilities, drawbacks, and bounties. It requires no explanation.

Article IX concerning duties of tonnage, harbor, pilotage, light-house, quarantine, etc., provides for national treatment applied reciprocally, that is, the same conditions are to be applied to a vessel of the Kingdom of the Serbs, Croats and Slovenes in American ports as are applied to American vessels, provided the Kingdom applies to American vessels in its ports the same conditions that are applied to vessels of the Serbs, Croats and Slovenes therein.

Article X requires no comment, except to note that the recognition of the national character of vessels here provided for is to be effective on the high seas as well as within territorial waters.

The provisions of Article XI will explain themselves. You will, of course, observe that there is definite statement to the effect that the coasting trade of both parties is exempt from the provisions of the Treaty. The addition of the last sentence is due to the possibility that one contracting party might yield coasting trade privileges of some character to foreign vessels. Hence that contingency is covered.

Your attention is particularly called to the provision contained in the third paragraph of Article XXX, under which the sixth and seventh paragraphs of Article VII and Articles IX and XI are made terminable on ninety days notice at the end of twelve months from the date of exchange of ratifications of the Treaty and thereafter by operation of legislation inconsistent with them which may be enacted by the United States or the Kingdom of the Serbs, Croats and Slovenes. The provision in regard to the termination of these paragraphs and articles is the consequence of a reservation in regard to like paragraphs and articles, made by the Senate of the United States in giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights, signed by the United States and Germany on December 8, 1923. From the point of view of this Government the provision is essential.

Article XII concerns the right of corporations incorporated in the one country to be recognized in the other, and to enjoy access to the courts. It should be observed, however, that the right to do business in the foreign country (for example, of an American corporation in the Kingdom of the Serbs, Croats and Slovenes) is conditioned upon the laws of that country. These limitations are deemed absolutely essential particularly because of the powers of the several

States of the United States to regulate the matter. Like provisions are contained in Article VII of the Treaty between the United States and Japan of February 21, 1911, as well as in the Treaty of 1923 between the United States and Germany, and the treaties recently concluded by the United States with Hungary, Estonia and Salvador.¹⁴

In Article XIII arrangement is made for the participation by nationals of the one State in corporations incorporated in the other. The laws of the United States render it imperative that these rights be based on a reciprocal footing, and that the most-favored-nation treatment in this connection be conditioned upon reciprocity. The last paragraph of Article XIII offers a reciprocal basis in harmony with the statutory law of the United States for agreement within necessarily narrow limits respecting privileges of mining and minerals described. The Act of February 25, 1920,¹⁵ to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain, contains in Section 1 the following proviso:

"That citizens of another country, the laws, customs, or regulations of which, deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act."

Article XIV duplicates the recent Convention concerning commercial travelers between the United States and Peru, signed at Lima, January 19, 1923,¹⁶ and Article XV embodies a protocol explanatory of that Convention. The provisions of these two Articles are believed to offer great advantages to merchants domiciled in the United States or in the Kingdom of the Serbs, Croats and Slovenes. It may be added that agreements substantially like that set forth in Articles XIV and XV are incorporated in the treaties of Friendship, Commerce and Consular Rights recently concluded by the United States with Germany and Hungary. The provisions of Article XIV are contained in conventions to facilitate the work of traveling salesmen concluded by the United States with eight Latin American countries. These are the fruit of the labors of the Inter-American High Commission.

You may call the attention of the Government of the Serbs, Croats, and Slovenes to Article XIV of the Treaty of Friendship, Commerce and Consular Rights between the United States and Estonia signed December 23, 1925, which contains a most favored nation clause in regard to the treatment of commercial travelers, and to paragraph

¹⁴ For text of the treaty with Salvador, see *Foreign Relations*, 1923, vol. II, p. 940.

¹⁵ 41 Stat. 437.

¹⁶ See *Foreign Relations*, 1919, vol. I, p. 45, footnote 47.

two of the protocol to that Treaty relating to certificates of identification of such travelers (Treaty Series No. 736). If the Government of the Serbs, Croats and Slovenes should desire the substitution of a most favored nation clause for the detailed provisions of Articles XIV and XV of the accompanying draft, this Government would be willing to give consideration to agreeing thereto. Before this Government would make a decision on the point it would be necessary for it to be informed as to the treatment to which American merchants and commercial travelers in the Kingdom would be entitled under such a provision. The Department would desire to have a report in regard to the requirements of the laws of the Kingdom relating to commercial travelers and the provisions concerning them in treaties to which the Kingdom is a party. Should an agreement be reached to insert a most favored nation provision in the Treaty with the Kingdom similar to Article XIV of the treaty between the United States and Estonia, this Government would desire that the Article in the Treaty cover the subjects treated in paragraph two of the protocol of the Treaty with Estonia as well as those in Article XIV of that treaty. As drafted for negotiation in treaties with other countries the Article reads:

ARTICLE —

"Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory."

Article XVI deals with transit through the territories of the United States and the Kingdom of the Serbs, Croats and Slovenes and also territorial waters with certain reservations as to the latter embracing international boundary waters of both countries, and the Panama Canal. This Article contains limitations with respect to prohibited persons and articles. The conditions applied to transit are reasonable and necessary. The reservation of boundary waters of the United States is important. It is not recalled that rights of navigation or transit therein have ever been accorded to foreign states not sovereign over contiguous territory.

Articles 321-326 of the Treaty of Versailles¹⁷ (embraced in the

¹⁷ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3329, 3485.

treaty of the United States with Germany of August 25, 1921¹⁸) make elaborate provision for transit across German territory. The Barcelona Conference, assembled under the auspices of the League of Nations, was productive of a draft convention and statute on the freedom of transit in April, 1921.¹⁹

It will be recalled that by Article 29 of the Treaty between the United States and Great Britain of May 8, 1871,²⁰ provision was made for the transit in bond of merchandise across certain portions of the United States and Canada under conditions specifying ports of entry, and otherwise defining limitations. This article is no longer in force.

The rights of transit through the Panama Canal are definitely established by the Convention between the United States and Great Britain of November 18, 1901, known as the Hay-Pauncefote Treaty.²¹ In Article III thereof it is provided that:

"The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable."

Thus it will be understood that Article XVI of the draft is not designed to impose any special restriction with respect to the Panama Canal which would operate against the Kingdom of the Serbs, Croats and Slovenes. The Article rather reserves from its operation the matter of transit through that Canal.

There may be some room for the practical operation of this Article as between the United States and the Kingdom of the Serbs, Croats and Slovenes; and its incorporation in the treaty is deemed useful, also on account of prospective treaty negotiations between the United States and other Powers.

Articles XVII-XXVIII concern consular rights. These cover fully consular provisions of the most modern type which ought to be of great benefit to consular officers of both countries.

Attention is called to the last sentence of the second paragraph of Article XVII providing that consular officers shall be entitled to the high consideration of officials with whom they come in contact. This is designed to give prestige to consular officers and particularly to safeguard them from discourtesy which they might otherwise encounter on the part of minor officials. The last paragraph of Article XVII provides that a regular commission be signed

¹⁸ *Foreign Relations*, 1921, vol. II, p. 29.

¹⁹ League of Nations Treaty Series, vol. VII, p. 11.

²⁰ Malloy, *Treaties*, 1776-1909, vol. I, p. 700.

²¹ *Foreign Relations*, 1902, p. 517.

by "the chief Executive of the appointing State and under its great seal". It may be that the Government of the Serbs, Croats and Slovenes on account of local regulations will regard it necessary to suggest a modification of this clause.

The matter of the arrest of consular officers and their criminal prosecution, as well as their service as witnesses in criminal cases, is covered fully in Article XVIII; likewise, the matter of their exemption from arrest. Exemption from arrest in criminal cases should be limited by the broad exception here stated. The same Article deals with the jurisdiction of courts over consuls in civil matters. While consular officers are normally subject to the local jurisdiction in civil cases, it is important to provide that the exercise of such jurisdiction shall not interfere with their official duties. The several provisions of the Article, including those in regard to the taking of testimony and the exemption from billeting, and from military and other services, are believed to be responsive to the modern situation and wholly desirable.

The taxation of consular officers is fully dealt with in Article XIX. It will be noted that there is an exemption from taxation on salaries of consular officers, and from taxation of the person or property of the consuls but that immovable property owned by them and income derived from sources within the country of official residence are excepted from this last exemption. An important exemption is established in the same Article with respect to lands and buildings used for governmental purposes and under necessary reservations.

Article XX in its first paragraph permits the hoisting of the flag of the country on consular offices including those "situated in the capitals of the two countries". It is hoped that this new provision, in sharp contrast with that contained in Article XVII of the Treaty of Friendship and General Relations concluded by the United States and Spain on July 3, 1902, may commend itself to the authorities of the Serbs, Croats and Slovenes. The second and third paragraphs of this Article require no comment.

The provisions of Article XXI enabling consular officers to address the authorities with a view to protecting their countrymen in the enjoyment of the rights accruing by treaty or otherwise, and in order to complain of infraction of those rights, are believed to serve a useful purpose.

It is important that a consular officer be permitted to invoke the aid of the authorities of the State to which he is accredited for the purposes set forth in this Article. Those purposes are described with greater fullness than is common in treaties of the United States. They ought to be inserted in the Treaty.

Article XXII makes provision for the exercise of notarial functions by consular officers. The first paragraph slightly elaborates

Article X of the Consular Convention of the United States with Sweden of June 1, 1910.²² There are also differences in phraseology. The second paragraph needs no explanation.

Article XXIII makes a definite and important provision in its first paragraph with respect to the jurisdiction of a consular officer over offenses committed on merchant vessels of his country and over certain civil cases under specified conditions. This paragraph differs sharply from the provisions on the same subject in treaties concluded by the United States before the Treaty of 1923 with Germany, as for example, the second paragraph of Article XIII of the Treaty of Commerce and Navigation concluded by the United States with Sweden and Norway on July 4, 1827,²³ and Article XI of the Consular Convention between the United States and Belgium of March 9, 1880.²⁴ In the latter it was provided, ". . .^{24a} The local authorities shall not interfere except when the disorder that has arisen is of such a nature as to disturb tranquillity and public order on shore, or in the port, or when a person of the country or not belonging to the crew shall be concerned therein." (See *Wildenhuis Case*, 120 U. S. 1.) Objection has been made to the foregoing language on the ground that it affords no sufficient tests and demands in each case a decision by a local court of a complicated preliminary question as to the propriety of local justice over offenses. In the provision proposed it is sought to indicate definitely certain conditions under which local courts may appropriately exercise jurisdiction in criminal cases. The jurisdiction thus conferred on them may go somewhat further than is contemplated by treaties concluded by the United States before the Treaty of 1923 with Germany. The second paragraph of Article XXIII is supplementary to the first. It is believed that a safe line is drawn for practical purposes, and no injustice is likely to result. The third paragraph provides for the consular invocation of local aid for the maintenance of internal order on board of a vessel. The fourth paragraph requires no comment.

Article XXIV pertains to the several problems where a countryman of the consul dies intestate within the consular district. The first paragraph provides for the notification of the consul of the fact of death where the decedent leaves no known heirs in the country where death occurred. This is a frequent provision in treaties of the United States. The Department of State has frequently advised the Governors of the several States of the United States of its existence in order that there might be local compliance. It may be noted that certain States such as Michigan and Minnesota have undertaken through their statutory law to provide for consular notification.

²² *Foreign Relations*, 1911, p. 723.

²³ Miller, *Treaties*, vol. 3, p. 283.

²⁴ Malloy, *Treaties*, 1776-1909, vol. I, p. 94.

^{24a} Omission indicated in the original despatch.

Consular rights under American treaties touching the administration of estates of deceased intestate aliens have lacked uniformity, and have contained phraseology that has been productive of much litigation in the United States. In the second paragraph of Article XXIV an attempt is made to define such rights clearly. The consul is given first, a right under certain circumstances to take charge of assets pending the appointment of an administrator; and secondly, a right to administer when the local law permits. He is thus rendered subject to the local statutory laws. The right to administer is rarely desired by an American consular officer. On the other hand, foreign consular officers in the United States often seek to exercise it. It is not believed that it should be conferred more broadly than is here provided. The last clause of this paragraph will be helpful to the foreign consular applicant for letters of administration in the United States.

It is deemed absolutely essential in the United States that any consular right of administration be subordinated to local State laws conferring rights of administration on public officials or private individuals, and that whenever a consul accepts the office of administrator he should be subjected to the jurisdiction of the tribunal appointing him. The last paragraph of the Article so provides.

Article XXV confers upon the consul the right to receipt for the distributive share accruing to a non-resident countryman, derived from estates in process of probate or from the operation of Workmen's Compensation Acts. The consul is obliged, however, to remit funds through the agencies of his Government to the proper distributees, and to furnish the authority making distribution through him reasonable evidence of such remission. This also is a fresh provision not contained in Treaties concluded by the United States before the Treaty of 1923 with Germany. It is believed that it will promote justice for all concerned.

It may be noted that the Employers Liability Act of Nebraska of 1913 provided in part that:

"... Such consular officer, or his representative, residing in the State of Nebraska, shall have, in behalf of such non-resident dependents, the exclusive right to adjust and settle all claims for compensation provided by this Article and to receive for distribution to such non-resident alien dependents all compensation arising thereunder." (Chap. 35, Art. VIII, Sec. 3663 Rev. Stat. of Nebraska, 1913) See also Sec. 23 of Workmen's Compensation Law of Minnesota, Chapter 467, General Laws 1913, as amended 1915.

Article XXVI contains a provision greatly desired by the Consular Service and the Public Health Service of the United States. It contemplates consular inspection of private vessels of any flag about to clear from ports of the United States for the Kingdom of

the Serbs, Croats and Slovenes or from the ports of the Kingdom of the Serbs, Croats and Slovenes for the United States. It is believed that the territorial sovereign is within its right in permitting a foreign consular officer to make reasonable inspection of any private vessel within its ports and about to clear for a port of the consul's country. It is earnestly hoped that the Government of the Serbs, Croats and Slovenes will accept this provision which will serve to facilitate the entry of vessels clearing from the ports of the Kingdom for American ports.

Article XXVII concerns the free entry of personal and official belongings of consular officers, their families and suites when nationals of the appointing State, with limitations that are specified.

American consular officers in foreign countries frequently experience difficulty in obtaining free entry for their personal property upon arrival at their posts and are often subjected to great annoyance and expense in connection therewith. Certain countries now permit free entry of the baggage and certain household property of consular officers and their families. Some, however, refuse free entry to automobiles, musical instruments, chinaware, etc. In some countries official supplies and equipment for consular officers are required to pay duty.

Under the United States Customs Regulations foreign consuls, their families and servants are granted, on the basis of reciprocity, free entry of all baggage and household goods which accompany them to the United States, or which arrive shortly thereafter. They are required to pay, in the absence of treaty provisions, regular duty on subsequent importations of personal property. Official supplies for consular offices are admitted free of duty.

Article XXVIII which is based upon Article XIII of the Consular Convention with Sweden of June 1, 1910, deals with the matter of shipwreck and salvage. The provisions are common in commercial treaties and consular conventions. They require no comment.

Article XXIX states definitely the scope of the territories, land, water and air, within the operation of the treaty. It has seemed wise to define comprehensively the territorial areas within the scope of the Treaty. It has been deemed important to embrace air, as well as land and water therein.

Article XXX deals with the duration of the Treaty and modes of terminating it.

It is important that the date on which the Treaty is to take effect be specified; and it is reasonable that that date should be the same one for all Articles of the Treaty. It is to be noted that the Treaty is to take effect on the date of the exchange of ratifications and that it will supplant the Convention of Commerce and Navigation between the United States and Serbia, concluded October 14, 1881, and the

Consular Convention between the United States and Serbia, concluded October 14, 1881.

The matter of duration and notice of termination is one on which there may well be divergent opinion. It is deemed wise to fix the initial period of operation at ten years in regard to all matters with respect to which the Contracting Parties have a permanent policy and to require one year's notice of termination. As already pointed out in this instruction the provisions of the third paragraph of Article XXX permitting the termination of the sixth and seventh paragraphs of Article VII and the whole of Articles IX and XI at the end of one year are the counterpart of a reservation made by the Senate of the United States in giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights, signed by the United States and Germany on December 8, 1923. From the point of view of this Government such a provision is necessary.

Article XXXI provides for the exchange of ratifications which, if the Treaty is signed at Belgrade, will normally also take place at that capital.

It will be observed that under the provisions of this Treaty, both legal and inheritance rights are recognized and protected.

In connection with the request by the Government of the Serbs, Croats and Slovenes for the negotiation of a naturalization convention, you will inform that Government that this Government will be pleased to receive from it and to consider such comments as it may care to make on the draft of the naturalization convention which was submitted by this Government through your Legation. The Department understood from despatches No. 2441 of September 2, 1924, and No. 2577 of February 14, 1925,²⁵ that the Government of the Serbs, Croats and Slovenes had studied that draft and would shortly thereafter be prepared to indicate its views thereon. Two copies of the Naturalization Convention signed November 23, 1923, by the United States and Bulgaria are enclosed.²⁶ The Department desires that any naturalization convention concluded between the United States and the Kingdom of the Serbs, Croats and Slovenes be similar to that convention.

With regard to the negotiation of a new extradition convention you will recall that in instruction No. 543 of January 8, 1925,²⁷ the Department pointed out that the extradition convention between the United States and Serbia,²⁸ which is regarded both by this Government and the Government of the Serbs, Croats and Slovenes as

²⁵ Neither printed.

²⁶ *Foreign Relations*, 1923, vol. I, p. 464.

²⁷ Not printed.

²⁸ Treaty signed Oct. 25, 1901; *Foreign Relations*, 1902, p. 938.

being applicable to the whole territory of the Kingdom, is a modern and comprehensive convention. Pending the receipt of the more specific information concerning the proposal of the Government of the Serbs, Croats and Slovenes to supplant this convention which it is indicated on page 2 of despatch No. 2577 of February 14, 1925,²⁹ would be furnished you, the Department is unwilling to consider the negotiation of a new treaty on this subject.

It will be agreeable to this Government to receive from the Government of the Serbs, Croats and Slovenes a draft of a convention relating to judgments and to give due consideration thereto. You should point out, however, that this Government has never become a party to a convention dealing with this subject and that it is very doubtful whether the fundamental principles of the State and Federal judicial systems of this country would admit of the acceptance of such a convention.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

Draft Treaty of Friendship, Commerce and Consular Rights

PREAMBLE

The United States of America and the Kingdom of Serbs, Croats and Slovenes, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America.

and His Majesty the King of the Serbs, Croats and Slovenes.

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the

²⁹ Not printed.

local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of each of the High Contracting Parties, irrespective of the country of their residence, shall enjoy in the territories of the other Party the same protection in respect of copyright as is accorded to nationals of the nation most favored in this respect.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes.

ARTICLE II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any

appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges or bases of such duties or charges, and no conditions or prohibition on the importation of any article, the growth, produce or manufacture of the territories of the other Party, from whatever place arriving, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any such duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

In the event of licenses being issued by either of the High Contracting Parties for the importation into or exportation from its territories of articles the importation or exportation of which is restricted or prohibited, the conditions under which such licenses may be obtained shall be publicly announced and clearly stated in such a manner as to enable traders interested to become acquainted with them; the method of licensing shall be as simple and unvarying as possible and applications for licenses shall be dealt with as speedily as possible. Moreover, the conditions under which such licenses are issued by either of the High Contracting Parties for goods imported from or exported to the territories of the other Party shall be as favorable with respect to commodities, formalities and otherwise as the conditions under which licenses are issued in respect of any other foreign country. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share, in view of the normal volume of trade in the particular class of goods between the two countries, in the allocation of the quantity of restricted goods which may be authorized for importation or exportation. In the application of the provisions of this paragraph no distinction shall be made between direct and indirect shipments. It is agreed, moreover, that in the event either High Contracting Party shall be engaged in war, it may enforce such import or export restrictions as may be required by the national interest.

Any advantage of whatsoever kind which either High Contracting Party may extend, by treaty, law, decree, regulation, practice or otherwise, to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in vessels of the Serbs, Croats and Slovenes, without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of the Kingdom of the Serbs, Croats and Slovenes, or are or may be legally exported therefrom in vessels of the Serbs, Croats and Slovenes may likewise be imported into these

ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the Serbs, Croats and Slovenes.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

ARTICLE VIII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

ARTICLE IX

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establish-

ments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

ARTICLE X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

ARTICLE XII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws.

ARTICLE XIII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no condition less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XIV

(a) Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the High Contracting Parties may operate as commercial travelers either personally or by means of agents or employees within the jurisdiction of the other High Contracting Party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

In case either of the High Contracting Parties shall be engaged in war, it reserves to itself the right to prevent from operating within its jurisdiction under the provisions of this article, or otherwise,

enemy nationals or other aliens whose presence it may consider prejudicial to public order and national safety.

(b) In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as a commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be viséed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in Section (a).

(c) A commercial traveler may sell his samples without obtaining a special license as an importer.

(d) Samples without commercial value shall be admitted to entry free of duty.

Samples marked, stamped or defaced in such manner that they cannot be put to other uses shall be considered as objects without commercial value.

(e) Samples having commercial value shall be provisionally admitted upon giving bond for the payment of lawful duties if they shall not have been withdrawn from the country within a period of six (6) months.

Duties shall be paid on such portion of the samples as shall not have been so withdrawn.

(f) All customs formalities shall be simplified as much as possible with a view to avoid delay in the despatch of samples.

(g) Peddlers and other salesmen who vend directly to the consumer, even though they have not an established place of business in the country in which they operate, shall not be considered as commercial travelers, but shall be subject to the license fees levied on business of the kind which they carry on.

(h) No license shall be required of:

(1) Persons traveling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise.

(2) Persons operating through local agencies which pay the license fee or other imposts to which their business is subject.

(3) Travelers who are exclusively buyers.

(i) Any concessions affecting any of the provisions of the present Article that may hereafter be granted by either High Contracting Party, either by law or by treaty or convention, shall immediately be extended to the other Party.

ARTICLE XV

(a) Regulations governing the renewal and transfer of licenses issued under the provisions of Article XIV, and the imposition of

fines and other penalties for any misuse of licenses may be made by either of the High Contracting Parties whenever advisable within the terms of Article XIV and without prejudice to the rights defined therein.

If such regulations permit the renewal of licenses, the fee for renewal will not be greater than that charged for the original license.

If such regulations permit the transfer of licenses, upon satisfactory proof that transferee or assignee is in every sense the true successor of the original licensee, and that he can furnish a certificate of identification similar to that furnished by the original licensee, he will be allowed to operate as a commercial traveler pending the arrival of the new certificate of identification, but the cancellation of the bond for the samples shall not be effected before the arrival of the said certificate.

(b) It is the citizenship of the firm that the commercial traveler represents, and not his own that governs the issuance to him of a certificate of identification.

The High Contracting Parties agree to empower the local customs officials or other competent authorities to issue the said licenses upon surrender of the certificate of identification and authenticated list of samples, acting as deputies of the central office constituted for the issuance and regulation of licenses. The said officials shall immediately transmit the appropriate documentation to the central office, to which the licensee shall thereafter give due notice of his intention to ask for the renewal or transfer of his license, if these acts be allowable, or cancellation of his bond, upon his departure from the country. Due notice in this connection will be regarded as the time required for the exchange of correspondence in the normal mail schedules, plus five business days for purposes of official verification and registration.

(c) It is understood that the traveler will not engage in the sale of other articles than those embraced by his lines of business; he may sell his samples, thus incurring an obligation to pay the customs duties thereupon, but he may not sell other articles brought with him or sent to him, which are not reasonably and clearly representative of the kind of business he purports to represent.

(d) Advertising matter brought by commercial travelers in appropriate quantities shall be treated as samples without commercial value. Objects having a depreciated commercial value because of adaptation for purposes of advertisement, and intended for gratuitous distribution, shall, when introduced in reasonable quantities, also be treated as samples without commercial value. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries. Samples accompanying the commercial traveler will be despatched as a portion of his personal baggage;

and those arriving after him will be given precedence over ordinary freight.

(e) If the original license was issued for a period longer than six months, or if the license be renewed, the bond for the samples will be correspondingly extended. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries.

ARTICLE XVI

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVII

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most-favored-nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Governments of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and they shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer

of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

ARTICLE XVIII

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defence. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE XIX

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or the income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental

purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The Consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XXI

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XXII

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of

any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XXIII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of

internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXIV

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXV

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XXVI

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVII

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVIII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the Consular Officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any custom house

charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXIX

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

ARTICLE XXX

Except as provided in the third paragraph of this Article the present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

The sixth and seventh paragraphs of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty.

The present Treaty shall supplant the Treaty of Commerce and Navigation and the Consular Convention between the United States and Serbia concluded on October 2/14, 1881.

ARTICLE XXXI

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed their seals thereto.

Done in duplicate, in the English and languages at , this . . . day of 192. .

711.60 h 2/9

*The Minister in the Kingdom of the Serbs, Croats and Slovenes
(Prince) to the Secretary of State*

No. 344

BELGRADE, December 22, 1927.

[Received January 12, 1928.]

SIR: With further reference to the Department's instruction No. 64 of March 23, 1927, (File No. 711.60 H 2/1), with which a draft of a treaty of friendship, commerce, and consular rights was enclosed for transmission to the Government of the Serbs, Croats and Slovenes through this Legation, I have the honor to report the results of the negotiations thus far.

Professor Todorović, an expert appointed by the Foreign Office for the preliminary negotiations, in his conversations with me has made several suggestions which were later incorporated in Foreign Office *note verbale* No. U 1656, which is transmitted herewith in copy and translation. It will be observed from this note that the Foreign Office suggests certain changes and eliminations in the first five articles (the mention of Article six is obviously a mistake) of the treaty draft on the theory that the rights therein mentioned are guaranteed by the National Constitution.

In order that the Department may judge as to the adequacy of the constitutional rights in this Kingdom, the Legation has translated that part of the Yugoslav constitution which may be termed a Bill of Rights, and it is transmitted herewith as enclosure No. 3.⁸⁰ The Legation pointed out to one of the members of the Legal Section of the Foreign Office that, while the word "citizen" seemed to be employed in the Constitution in the sense of "resident", at least in one place, i. e., Article 10, ("No citizen may be expelled from the country") it must have been intended to give the word "citizen" the meaning of "subject", rather than "resident". The expert stated that this confusion of the terms "citizen" and "subject" is a recognized weakness of the Constitution, but that the Legislature had undoubtedly intended to use "citizen" in the meaning of "resident", (which would include

⁸⁰ Not printed.

American citizens) in every place where it is used in the Bill of Rights except in the one instance above cited.

The suggestion to eliminate Article 6, was made by the Foreign Office on the assumption that it would be impossible to cause the military authorities to accept the proposal to allow the conscription of aliens in time of war, and further that in the absence of a naturalization treaty, final naturalization, to say nothing of the mere declaration of intention, is not recognized by this country. However, I made it clear that this provision of the Treaty is especially desired by the American Government.

The Department will observe that the suggestion to eliminate the phrase "the state of residence or as nationals of" (Article I, lines 24-25) would not guarantee to Americans in this Kingdom the same rights which natives enjoy in the various matters specified in Article I. In my discussions I pointed out that in our present Treaty of 1881 with Serbia Americans were assured the same rights as natives (and vice versa) in a multitude of matters. However, I am assured by the Foreign Minister that in all future commercial treaties Yugoslavia will give foreigners only the same rights as those enjoyed by nationals of the most-favored-nation in various questions pertaining to residence, domicile, entry, taxes, customs, commerce, navigation and industry, the carrying on of business, exercise of professions, the ownership of property, etc. This is clearly shown in the recently concluded British-Yugoslav Commercial Treaty, a copy of which is transmitted herewith as enclosure No. 4.³¹ I gathered from my conversations that if the American Government desires to submit a draft of the most-favored-nation clause in the sense in which it is contained in the British-Yugoslav Treaty this will be acceptable to the Government of the Serbs, Croats and Slovenes. I was told by the Minister of Foreign Affairs that this Kingdom could no longer guarantee to foreigners the same rights as those given to natives to the extent specified in the Treaty of 1881, now in force between the United States and Yugoslavia. Mr. Marinković explained that this was not due to any intention to restrict the rights now enjoyed by American citizens in this Kingdom, but because, under the most-favored-nation clause, other states could claim the same rights, which the Kingdom of the S. C. S. was loath to concede to subjects of certain neighboring states. It was clear that the Foreign Minister had in mind especially Bulgaria, Hungary and Italy and the Department will recollect that this Kingdom is desirous of preventing Italians from establishing them-

³¹ Not printed. For text, signed May 12, 1927, see League of Nations Treaty Series, vol. LXXX, p. 165.

selves on the Dalmatian coast. (See Legation despatch No. 333 of December 4, 1927).³²

In my conversations at the Foreign Office the exact meaning of the following part of Article XXVII of the draft was questioned:

"... the High Contracting Parties agree ... to extend to such consular officers ... the privilege of entry free of duty of ... personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof ..."

It was not clear to the Foreign Office whether the above quoted article was intended to apply to the importation of merchandise, newly purchased abroad, or whether it was limited to the personal property of the consular officer, which had previously been in his possession. I suggest that the Department may desire to make this article clearer.

I am also sending herewith, as enclosure No. 5, a copy of the recently concluded German-Yugoslav Treaty of Commerce, which entered into force on December 20, 1927,—the date of the exchange of ratifications.³³ It will be observed from Article 13 of the concluding protocol (*Schlussprotokoll*) of this treaty, that shipments of trans-oceanic goods, if imported into Yugoslavia through Germany, may be accompanied by certificates of origin executed in Germany. This may be of considerable practical advantage to distributors of American goods in places such as Vienna, because, as the Department is aware, (See Legation Despatch No. 278 of August 31, 1927, Leg. File No. 631),³⁴ such indirect shipments of American goods are subject to the maximum Yugoslav customs tariff. The Legation will send another copy of the German-Yugoslav Treaty to Commercial Attaché Groves at Vienna, who will see whether Austria desires to claim the same privilege under the most-favored-nation clause. Should this be the case, it would greatly facilitate the transshipment of American goods from Vienna, which is greatly hampered at present by the certificate-of-origin requirement.

I have here discussed only those points in the Foreign Office *note verbale* which appear to require amplification, as the remaining suggestions enumerated therein will be self evident to the Department.

As of possible interest to the Department, there is also transmitted herewith, (Enclosure No. 6), a copy of the recently ratified Treaty of Commerce and Navigation between the Kingdom of the Serbs, Croats and Slovenes and the Economic Union of Belgium and Luxemburg.³⁴

I have [etc.]

JOHN DYNELEY PRINCE

³² Not printed.

³³ League of Nations Treaty Series, vol. LXXVII, p. 19.

³⁴ Not printed. For text, signed Dec. 16, 1926, see League of Nations Treaty Series, vol. LXX, p. 371.

[Enclosure—Translation]

The Minister of Foreign Affairs of the Kingdom of the Serbs, Croats and Slovenes (Marinkovitch) to the American Minister (Prince)

U. No. 1656

BELGRADE, October 20, 1927.

MR. MINISTER: In reply to letter No. 1419 of April 19, 1927, by means of which you had the goodness to submit your Government's draft of a Treaty of Friendship, of Commerce, and of Consular Rights, I have the honor to inform you of the following remarks and modifications to this draft:

Article I.

- | | |
|--|---|
| 1) eliminate the phrase (line 5-6) | to exercise liberty of conscience and freedom of worship. |
| 2) add after the word "privileges" (line 22) the words | all this |
| 3) eliminate the phrase (line 24) | the state of residence or as nationals of |

Article II.

Article III.

Article IV.

Article V.

Article VI.

Article VII.

- | | |
|--|-----------|
| 1) in the second paragraph eliminate the last sentence | eliminate |
| 2) eliminate paragraphs 6 and 7 and form a new article of the same material to be placed after Article VIII. | eliminate |
| 3) to article VII comes this final protocol, thus worded: | accepted |

The treatment of the most favored Nation is not applicable:

1) to special favors, which were or shall be granted to limitrophe Countries in order to facilitate the frontier traffic;

2) to special favors, which were or shall be granted to a third State in virtue of a Custom Union.

Article VIII.

eliminate at the beginning the words

Article IX.

Article X.

Article XI.

at the end, add:

"nationals and"

accepted

"upon the condition of reciprocity"

Article XII.

accepted

Article XIII.

Article XIV.

- 1) eliminate paragraph C.
- 2) eliminate entirely the second part of paragraph D.
- 3) Paragraph G, modified, should read thus:

The provisions of article 14 shall not be applicable to ambulant industries, nor shall they be applicable to peddlery or to persons who are in search of commands from persons who do not exercise nor commerce nor industry.

- 4) in the final protocol add the following text:

on the reason of commercial business concluded on the territories of the other Contracting Party, commercial travellers shall not be subject to other taxes or at a higher rate than its nationals, or nationals of the most favored nation.

Article XV.

eliminate the complete first part of Paragraph b.

Article XVI.

accepted

Article XVII.

in Paragraph 3 strike out from the last sentence

"or other document issued in lieu thereof"

Article XVIII.

accepted.

Article XIX.

Article XX.

in the first paragraph, after the words "with an appropriate inscription" add:

"on the national language"

Articles XXI-XXV.

accepted.

Article XXVI.

in place of the words "of any flag" put:

"only national flag of each of the High Contracting Parties".

Articles XXVII-XXXI.

accepted.

Articles VIII and IX receive a final protocol, worded as follows:

ad art. VIIIa. IX the disposition of the art. VIIIa, IX, shall be applied only on the maritime navigation.

In informing you of the preceding, I have the honor, Mr. Minister, to draw your attention to the fact that

1. Our proposal to eliminate Articles II, III, V and VI, as well as the first part of Article I does not result from the fact that these rights and favors would not be accorded to foreigners but because

these rights are, on the contrary, guaranteed by the Constitution of the Kingdom of the Serbs, Croats and Slovenes.

2. Modifications (2) and (3) to Article I are introduced because the questions of domicile (*établissement*) and employment are treated in our Kingdom in Conventions of Domicile, and Treaties of Commerce containing only the most-favored-nation clause in this sense.

Regarding the project of the conclusion of different purely juridical conventions, I will take these matters up later as soon as I have received detailed replies from the Ministries competent in the matters in question.

Accept [etc.]

DR. V. MARINKOVITCH ³⁵

³⁵ These negotiations did not result in the signing of a treaty.

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